

FREEDOM COURT REPORTING

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<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE MIDDLE DISTRICT OF ALABAMA</p> <p>3 SOUTHERN DIVISION</p> <p>4</p> <p>5</p> <p>6 NANCY MARTIN and</p> <p>7 MARY BETH BRACKIN,</p> <p>8 Plaintiffs,</p> <p>9 vs. CASE NO. 1:05-CV-1172-MEF</p> <p>10 City of Dothan and</p> <p>11 JUDGE ROSE EVANS-GORDON,</p> <p>12 Defendants.</p> <p>13</p> <p>14 *****</p> <p>15 DEPOSITION OF ROSE EVANS-GORDON, taken</p> <p>16 pursuant to stipulation and agreement before Sherry</p> <p>17 McCaskey, Certified Court Reporter and Commissioner</p> <p>18 for the State of Alabama at Large, in the Dothan</p> <p>19 Civic Center, 126 N. Andrews Street, Dothan,</p> <p>20 Alabama, on Tuesday, October 30, 2007, commencing at</p> <p>21 approximately 9:00 a.m.</p> <p>22 *****</p> <p>23</p>	<p>1 State of Alabama at Large, without the formality of</p> <p>2 a commission; that objections to questions other</p> <p>3 than objections as to the form of the questions need</p> <p>4 not be made at this time but may be reserved for a</p> <p>5 ruling at such time as the deposition may be offered</p> <p>6 in evidence or used for any other purpose as</p> <p>7 provided for by the Federal Rules of Civil</p> <p>8 Procedure.</p> <p>9 It is further stipulated and agreed by and</p> <p>10 between counsel representing the parties in this</p> <p>11 case that said deposition may be introduced at the</p> <p>12 trial of this case or used in any manner by either</p> <p>13 party hereto provided for by the Federal Rules of</p> <p>14 Civil Procedure.</p> <p>15 *****</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
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<p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFFS:</p> <p>3 ISHMAEL JAFFREE, ESQUIRE</p> <p>4 Jaffree Law</p> <p>5 951 Government Street</p> <p>6 Suite 415</p> <p>7 Mobile, Alabama 36604</p> <p>8 FOR THE DEFENDANTS:</p> <p>9 CAROL SUE NELSON, ESQUIRE</p> <p>10 Maynard, Cooper & Gayle</p> <p>11 Attorneys at Law</p> <p>12 2400 Amsouth/Harbert Plaza</p> <p>13 1901 Sixth Avenue North</p> <p>14 Birmingham, Alabama 35203</p> <p>15</p> <p>16 *****</p> <p>17 EXAMINATION INDEX</p> <p>18 ROSE EVANS-GORDON</p> <p>19 BY MR. JAFFREE 4</p> <p>20 BY MS. NELSON 481</p> <p>21</p> <p>22 *****</p> <p>23 STIPULATIONS</p> <p>It is hereby stipulated and agreed by and</p> <p>between counsel representing the parties that the</p> <p>deposition of ROSE EVANS-GORDON is taken pursuant to</p> <p>the Federal Rules of Civil Procedure and that said</p> <p>deposition may be taken before Sherry McCaskey,</p> <p>Certified Court Reporter and Commissioner for the</p>	<p>1 (Witness waived right to read and</p> <p>2 sign.)</p> <p>3 ROSE EVANS-GORDON</p> <p>4 The witness, having first been duly sworn</p> <p>5 to speak the truth, the whole truth and nothing but</p> <p>6 the truth, testified as follows:</p> <p>7 EXAMINATION</p> <p>8 BY MR. JAFFREE:</p> <p>9 Q. Could you state your full name for the</p> <p>10 Record?</p> <p>11 A. Rose Evans-Gordon.</p> <p>12 Q. Have you ever been known by any other name?</p> <p>13 A. No.</p> <p>14 Q. Do you have a maiden name?</p> <p>15 A. Evans.</p> <p>16 Q. Oh, okay. Have you ever --</p> <p>17 MR. JAFFREE: By the way, do we agree on</p> <p>18 the normal stipulations?</p> <p>19 MS. NELSON: Yes.</p> <p>20 Q. Have you ever sat for a deposition before?</p> <p>21 A. Not as a witness, no.</p> <p>22 Q. Have you ever administered a deposition</p> <p>23 before?</p>

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<p>1 A. Yes.</p> <p>2 Q. Are you familiar with the purposes of a</p> <p>3 deposition?</p> <p>4 A. Yes.</p> <p>5 Q. You understand, of course, that if I say</p> <p>6 anything that you don't understand or that's</p> <p>7 not clear, you can ask me to restate it or</p> <p>8 rephrase it, and I'll do my best to do so.</p> <p>9 A. Yes.</p> <p>10 Q. Where are you currently employed?</p> <p>11 A. City of Dothan.</p> <p>12 Q. In what capacity?</p> <p>13 A. Presiding judge of the City of Dothan's</p> <p>14 Municipal Court.</p> <p>15 Q. And how long have you held that position?</p> <p>16 A. I think this will be my eighth year.</p> <p>17 Q. When were you initially hired into that</p> <p>18 position?</p> <p>19 A. December of 1999?</p> <p>20 Q. You're not sure?</p> <p>21 A. Not sure. December or November of 1999.</p> <p>22 Q. Prior to ascending or getting appointed to the</p> <p>23 position of judge of municipal court, did you</p>	<p>1 briefs. I represented state officials sued in</p> <p>2 their official capacities. It -- it varied.</p> <p>3 It depended on what division I was assigned</p> <p>4 to. I did a lot of administrative work for</p> <p>5 boards and agencies.</p> <p>6 Q. And did you do any civil work?</p> <p>7 A. It was all civil.</p> <p>8 Q. Okay. Did you appear in court --</p> <p>9 A. I did.</p> <p>10 Q. -- as opposed to administrative bodies?</p> <p>11 A. Yes.</p> <p>12 Q. What type of court cases did you handle?</p> <p>13 A. Primarily, any case against a state official</p> <p>14 sued in his official capacity, that I was</p> <p>15 assigned to. That's what the Attorney</p> <p>16 General's Office is, the -- the State's</p> <p>17 attorney. So any official that was sued in</p> <p>18 his official capacity, I represented them if</p> <p>19 that case was assigned to me.</p> <p>20 Q. Can you think of any case in particular that</p> <p>21 you represented a public official?</p> <p>22 A. Innumerable. Prison wardens. I can't</p> <p>23 possibly because I was there almost 13 years,</p>
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<p>1 occupy any other positions?</p> <p>2 A. I did.</p> <p>3 Q. And what was your most recent position that</p> <p>4 you occupied prior to becoming a judge?</p> <p>5 A. Prior to becoming a judge, I was an assistant</p> <p>6 attorney general in the Attorney General's</p> <p>7 Office in Montgomery, Alabama.</p> <p>8 Q. And from when to when did you occupy that</p> <p>9 position?</p> <p>10 A. From approximately October 1987. And that's</p> <p>11 an approximation.</p> <p>12 Q. And until you got hired?</p> <p>13 A. I did.</p> <p>14 Q. And what was your principal job</p> <p>15 responsibilities as assistant attorney</p> <p>16 general?</p> <p>17 A. It varied.</p> <p>18 Q. Well, can you give me some examples of what</p> <p>19 you did?</p> <p>20 A. For example, for a couple of years, I was</p> <p>21 assigned to the Public Service Commission to</p> <p>22 represent the using and consuming public's</p> <p>23 interest at the commission. I -- I wrote</p>	<p>1 I think. So over the course of that 13 years,</p> <p>2 I -- I went from department -- I mean, just</p> <p>3 depended on what I was assigned. I had no</p> <p>4 control over my assignments.</p> <p>5 Q. So would you say that you was well-grounded in</p> <p>6 public service jurisprudence?</p> <p>7 MS. NELSON: Object to the form. I don't</p> <p>8 know if I understand it but you can</p> <p>9 answer.</p> <p>10 MR. JAFFREE: You found some problem with</p> <p>11 the form?</p> <p>12 MS. NELSON: Yes.</p> <p>13 Q. Do you know what well-versed means?</p> <p>14 A. I do.</p> <p>15 Q. Do you know what public service means?</p> <p>16 A. Public service, I think, is up to</p> <p>17 interpretation.</p> <p>18 Q. How do you interpret it?</p> <p>19 A. Public service is the work of the public good,</p> <p>20 basically.</p> <p>21 Q. Okay. In case there was some ambiguity, are</p> <p>22 you well-versed in government employment</p> <p>23 litigation?</p>

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<p style="text-align: right;">Page 9</p> <p>1 A. No.</p> <p>2 Q. Well, you said you represented public</p> <p>3 officials.</p> <p>4 A. They were not necessarily employment issues of</p> <p>5 a government official. There might have been</p> <p>6 liability issues or policy, procedure, not</p> <p>7 necessarily employment issues.</p> <p>8 Q. Did you handle any cases --</p> <p>9 A. No.</p> <p>10 Q. -- involving employment issues?</p> <p>11 A. None that I can remember specifically.</p> <p>12 Q. So if a governmental official was sued in his</p> <p>13 official capacity and it was an employment</p> <p>14 action or civil rights action dealing with</p> <p>15 employment, you wouldn't have represented that</p> <p>16 person?</p> <p>17 A. They had in-house lawyers. For example, the</p> <p>18 Alabama Department of Corrections, they had</p> <p>19 in-house lawyers who represented the</p> <p>20 commissioner specifically. So, no, is the</p> <p>21 answer. I mean, none that I can think of</p> <p>22 specifically.</p> <p>23 Q. Okay. Well, you said you occupied that</p>	<p style="text-align: right;">Page 11</p> <p>1 A. Few, very few.</p> <p>2 Q. Do you recall any that you've written?</p> <p>3 A. No. Very early in my tenure there, I was</p> <p>4 assigned to criminal appeals.</p> <p>5 Q. Well, during your 13 years with the Attorney</p> <p>6 General's Office, did you engage in any</p> <p>7 private practice?</p> <p>8 A. No.</p> <p>9 Q. Now, prior to your appointment as an assistant</p> <p>10 attorney general -- is it appropriate to refer</p> <p>11 to that as an appointment?</p> <p>12 A. It was not an appointment. It was an</p> <p>13 employment. I was not a -- it was not an</p> <p>14 appointment.</p> <p>15 Q. Was it a competitive position?</p> <p>16 A. I applied.</p> <p>17 Q. Was it a merit system --</p> <p>18 A. It was.</p> <p>19 Q. So then you was a merit system employee?</p> <p>20 A. I was.</p> <p>21 Q. Did you have certain rights and</p> <p>22 responsibilities as a merit system employee?</p> <p>23 MS. NELSON: Object to the form.</p>
<p style="text-align: right;">Page 10</p> <p>1 position 13 years.</p> <p>2 A. I did.</p> <p>3 Q. From when to when?</p> <p>4 A. Approximately 13 years. It's from September</p> <p>5 or October of 1987 until November or December,</p> <p>6 1999.</p> <p>7 Q. In addition to representing governmental</p> <p>8 officials on the civil side, did you do</p> <p>9 anything on the criminal side?</p> <p>10 A. No.</p> <p>11 Q. So you have no criminal law experience at all?</p> <p>12 A. Well, I mean, I do but I don't -- I didn't</p> <p>13 represent criminal defendants. I -- I've</p> <p>14 written briefs.</p> <p>15 Q. On behalf of who?</p> <p>16 A. The State of Alabama.</p> <p>17 Q. In criminal cases?</p> <p>18 A. No, not -- I mean, not specifically criminal</p> <p>19 cases. I guess appeals, criminal appeals.</p> <p>20 But I never went to court.</p> <p>21 Q. You've written criminal appellate briefs?</p> <p>22 A. Right.</p> <p>23 Q. Many, few?</p>	<p style="text-align: right;">Page 12</p> <p>1 A. As a -- as an -- as an employee I -- I</p> <p>2 assume. Whatever was --</p> <p>3 Q. You want me to be a little bit more specific?</p> <p>4 A. Well, whatever was given, you know, to</p> <p>5 employees. I'm not -- I'm not -- I don't</p> <p>6 know.</p> <p>7 Q. Well, in your view as a merit system employee,</p> <p>8 would you have the right to continue</p> <p>9 employment absent good cause shown?</p> <p>10 MS. NELSON: Object to the form.</p> <p>11 A. I'm not sure I understand the question.</p> <p>12 Q. Okay. Did you feel that, as a merit system</p> <p>13 employee, you could only be terminated for</p> <p>14 cause?</p> <p>15 A. Did I feel --</p> <p>16 Q. Did you feel --</p> <p>17 A. -- as a merit system employee?</p> <p>18 Q. -- as a merit system employee that you're</p> <p>19 going to be terminated for cause?</p> <p>20 A. Did I feel that? No. I -- I mean, I always</p> <p>21 thought Alabama was an at-will state. So I</p> <p>22 never -- I never thought about it, so I never</p> <p>23 felt about it. I don't know.</p>

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<p style="text-align: right;">Page 13</p> <p>1 Q. You did say you was a merit system employee?</p> <p>2 A. Yes.</p> <p>3 Q. And you felt that you could be terminated at</p> <p>4 will?</p> <p>5 A. I always thought -- you know, I've always</p> <p>6 heard Alabama is an at-will employment state.</p> <p>7 I mean, that's just --</p> <p>8 Q. Did you think that term to be absolute?</p> <p>9 A. I didn't -- I didn't care.</p> <p>10 MS. NELSON: Object to the form.</p> <p>11 A. I mean, I don't know. I never thought about</p> <p>12 it. I always heard, Alabama is an at-will</p> <p>13 employment state. And that's just -- I never</p> <p>14 thought about it.</p> <p>15 Q. Did you think when you was an assistant</p> <p>16 attorney general that if your appointing</p> <p>17 authority or your superior decided to</p> <p>18 terminate your services, they had to give you</p> <p>19 any notice?</p> <p>20 A. I never thought about it. I mean, I -- I</p> <p>21 assumed.</p> <p>22 Q. Did you think you had a right to some kind of</p> <p>23 hearing?</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. -- your employment, you never knew that you</p> <p>2 had any rights?</p> <p>3 A. I never thought about it.</p> <p>4 Q. Well, did you get any kind of operations</p> <p>5 manual or employee handbook or --</p> <p>6 A. Probably 13 years -- I mean, in 1999 when I</p> <p>7 was hired, I probably did.</p> <p>8 Q. I'm not talking 1999; we're talking about</p> <p>9 1987.</p> <p>10 A. 1987, even longer, I probably did.</p> <p>11 Q. Okay. Do you know that merit system employees</p> <p>12 have a property right interest in continued</p> <p>13 employment?</p> <p>14 A. No.</p> <p>15 MS. NELSON: Object to the form.</p> <p>16 Q. You don't know that?</p> <p>17 A. I don't know that for a fact. I'd have to</p> <p>18 research it. But, no, I don't know that.</p> <p>19 Q. Do you know that as a legal scholar?</p> <p>20 A. No, I don't know that.</p> <p>21 Q. Well, let's talk about your educational</p> <p>22 background.</p> <p>23 A. Please.</p>
<p style="text-align: right;">Page 14</p> <p>1 MS. NELSON: I object to the form, what</p> <p>2 she thinks.</p> <p>3 A. Yeah. And I never thought about it. I</p> <p>4 never -- I never thought about it.</p> <p>5 MR. JAFFREE: Well, I shouldn't ask her</p> <p>6 what she thinks?</p> <p>7 MS. NELSON: That's right. You can ask</p> <p>8 her what she knows.</p> <p>9 Q. Are you capable of thinking?</p> <p>10 A. No.</p> <p>11 MS. NELSON: Object to the form.</p> <p>12 A. Let's put some levity in here as you said</p> <p>13 yesterday.</p> <p>14 Q. Well, did you know that you had a right to a</p> <p>15 hearing if your superior decided to take some</p> <p>16 adverse action against you?</p> <p>17 A. If I say no, I didn't know that. I never</p> <p>18 thought about it. I was never put in that</p> <p>19 situation. I never looked into what my rights</p> <p>20 were as a merit system employee. I never</p> <p>21 looked into it.</p> <p>22 Q. So for the 13 years of --</p> <p>23 A. I never thought about it.</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Excluding primary and secondary school, did</p> <p>2 you go to college anywhere?</p> <p>3 A. I did.</p> <p>4 Q. Where?</p> <p>5 A. Fisk University in Nashville, Tennessee.</p> <p>6 Q. What did you major in?</p> <p>7 A. Political science and public administration.</p> <p>8 Q. You majored in both --</p> <p>9 A. I did.</p> <p>10 Q. -- courses?</p> <p>11 Were you proficient in your public</p> <p>12 administration courses?</p> <p>13 A. I assume; I graduated.</p> <p>14 Q. You passed your public administration courses?</p> <p>15 A. I did.</p> <p>16 Q. Did you do fairly well in those courses?</p> <p>17 A. I assume. I was salutatorian of my class.</p> <p>18 Q. Was that course of study rigorous?</p> <p>19 A. I assume. I didn't have anything to compare</p> <p>20 it to.</p> <p>21 Q. Public administration, does that relate at all</p> <p>22 to the rights of public officials?</p> <p>23 A. I -- I'm sure that's some of the course of</p>

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<p>1 study.</p> <p>2 Q. And did you discuss the role of public</p> <p>3 officials in the government square?</p> <p>4 A. If it did, it was 28 years ago.</p> <p>5 Q. So you have no recollection of what you may</p> <p>6 have learned in that course?</p> <p>7 A. Not specifically, no.</p> <p>8 Q. Okay. Now, after you successfully or rather</p> <p>9 poorly matriculated through Fisk, having</p> <p>10 majored in public administration and political</p> <p>11 science, did you go anywhere else?</p> <p>12 A. I did.</p> <p>13 Q. And where did you go after you left Fisk?</p> <p>14 A. Tulane University School of Law, New Orleans,</p> <p>15 Louisiana.</p> <p>16 Q. And did you matriculate through Tulane?</p> <p>17 A. I did.</p> <p>18 Q. And did you get a JD?</p> <p>19 A. I did.</p> <p>20 Q. Did you get any advanced degree beyond a JD?</p> <p>21 A. I did.</p> <p>22 Q. What advanced degree did you get?</p> <p>23 A. I did a major course of study at Ely Broad</p>	<p>1 Q. Well, let's get back to your law school</p> <p>2 career. Do you recall any of the courses that</p> <p>3 you took in law school?</p> <p>4 A. Contracts. What you take in law school:</p> <p>5 criminal procedure, criminal law, contracts.</p> <p>6 Q. Did you take any public administration law?</p> <p>7 A. Constitutional law. Public administration</p> <p>8 law?</p> <p>9 Q. Yes.</p> <p>10 A. No, I -- there was -- I worked at -- no.</p> <p>11 Q. Any law --</p> <p>12 A. I don't -- I don't remember.</p> <p>13 Q. Any law dealing with government service?</p> <p>14 A. I don't -- no. If I did, I don't remember</p> <p>15 specifically.</p> <p>16 Q. But you did take constitutional law?</p> <p>17 A. I'm sure as part of my core classes I did.</p> <p>18 Q. And was that perhaps a year course -- a</p> <p>19 year-long course?</p> <p>20 A. I don't remember whether it was a year or</p> <p>21 semester.</p> <p>22 Q. And did your constitutional law course have a</p> <p>23 both criminal and civil component?</p>
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<p>1 School of Management at the University of</p> <p>2 Michigan, public policies and procedures</p> <p>3 toward my master's.</p> <p>4 Q. And did you obtain a master's in that?</p> <p>5 A. I did not.</p> <p>6 Q. How many years did you spend at Tulane Law</p> <p>7 School?</p> <p>8 A. Three or four. I graduated in 1984 -- '87,</p> <p>9 three years.</p> <p>10 Q. Was that in New Orleans?</p> <p>11 A. It was. It is.</p> <p>12 Q. Well, I just wanted to make sure it was?</p> <p>13 A. No. I'm glad it still is because of the</p> <p>14 storm.</p> <p>15 Q. Well, I understand.</p> <p>16 A. I wasn't being sarcastic.</p> <p>17 Q. I guess, if it was in New Orleans at the time</p> <p>18 you went, I guess that's the critical part of</p> <p>19 this question. I'm glad, as well, that it</p> <p>20 still is.</p> <p>21 Did you take and successfully pass the</p> <p>22 Louisiana Bar?</p> <p>23 A. I did not take the Louisiana Bar.</p>	<p>1 A. I don't remember. Criminal law,</p> <p>2 constitution -- I don't remember.</p> <p>3 Q. You don't remember?</p> <p>4 A. Huh-uh (negative response).</p> <p>5 MS. NELSON: Say yes or no.</p> <p>6 A. Yes -- no, I don't remember.</p> <p>7 Q. You don't recall taking any courses or</p> <p>8 studying any cases dealing with constitutional</p> <p>9 law on the criminal side?</p> <p>10 A. Not specifically, no.</p> <p>11 Q. All right. Do you remember studying any First</p> <p>12 Amendment jurisprudence?</p> <p>13 A. Not specifically.</p> <p>14 MS. NELSON: Again, I'm going to object to</p> <p>15 this line of questioning. If you're</p> <p>16 trying to question her about courses</p> <p>17 that she took in 1987 about</p> <p>18 constitutional law -- the law is what</p> <p>19 it is -- to try to get her to say that</p> <p>20 she can, you know, interpret questions</p> <p>21 of law in this case, I'm going to</p> <p>22 object to.</p> <p>23 MR. JAFFREE: Okay. I took -- I was in</p>

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<p>1 law school in 1970, and I sort of</p> <p>2 remember my constitutional law</p> <p>3 question. But if you don't, fine.</p> <p>4 MS. NELSON: The Constitution, as I</p> <p>5 understand it, the Supreme Court</p> <p>6 interprets that. And it -- their</p> <p>7 interpretation changes from year to</p> <p>8 year as to what the law is. So you</p> <p>9 know, I'm objecting to this line of</p> <p>10 questioning.</p> <p>11 MR. JAFFREE: Sometimes they even go back.</p> <p>12 MS. NELSON: Yeah.</p> <p>13 MR. JAFFREE: And go back to what it was</p> <p>14 before.</p> <p>15 MS. NELSON: They do.</p> <p>16 MR. JAFFREE: Back to --</p> <p>17 MS. NELSON: It's ever changing and</p> <p>18 evolving, isn't it?</p> <p>19 MR. JAFFREE: Well, that's a nice</p> <p>20 theological --</p> <p>21 MS. NELSON: It is. We could debate this</p> <p>22 all day.</p> <p>23 MR. JAFFREE: Maybe philosophical debate</p>	<p>1 constitutional law class covered the First</p> <p>2 Amendment?</p> <p>3 A. I'd hate to guess. You know, I don't --</p> <p>4 Q. You'd hate to guess?</p> <p>5 A. I don't remember specifically.</p> <p>6 Q. Do you remember specifically whether or not</p> <p>7 your constitutional law course covered the</p> <p>8 freedom of association?</p> <p>9 A. No, I don't remember specifically.</p> <p>10 Q. Well, irrespective of what you remember about</p> <p>11 your constitutional law class that may have</p> <p>12 been -- you said in 1980 -- have your fairly</p> <p>13 life-long experience working in the legal</p> <p>14 profession taught you anything about First</p> <p>15 Amendment jurisprudence?</p> <p>16 A. No.</p> <p>17 Q. All right. Do you know that there is a right</p> <p>18 to free speech?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know that this is a right that</p> <p>21 government-sector employees have?</p> <p>22 MS. NELSON: Object to the form.</p> <p>23 A. And not specifically. I know it's right</p>
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<p>1 between us, but this is my witness</p> <p>2 here. And I'd like to ask her some</p> <p>3 questions along this line.</p> <p>4 Q. Did you realize from your constitutional law</p> <p>5 course that people have first amendment rights</p> <p>6 to allow them to engage in certain protected</p> <p>7 speech?</p> <p>8 MS. NELSON: Object to the form.</p> <p>9 A. And, you know, again I have to say, no.</p> <p>10 Q. No?</p> <p>11 A. Not from my constitutional law course, I</p> <p>12 wouldn't -- I don't remember that.</p> <p>13 Q. You don't recall any constitutional law</p> <p>14 courses dealing with protected speech?</p> <p>15 A. Not specifically.</p> <p>16 Q. Okay. Did your constitutional law cover the</p> <p>17 Constitution? Did it cover, let's say, the</p> <p>18 First Amendment of the Constitution?</p> <p>19 A. I can only assume, and you want me to say yes</p> <p>20 or no. So --</p> <p>21 Q. Your best guess.</p> <p>22 A. I don't remember.</p> <p>23 Q. As your best guess, do you think your</p>	<p>1 that -- that's in the Bill of Rights as a part</p> <p>2 of the Constitution. But, no.</p> <p>3 Q. And do you --</p> <p>4 A. I don't know what rights government-sector</p> <p>5 employees have.</p> <p>6 Q. And do you know that the rights of free speech</p> <p>7 includes the right to speak about matters of</p> <p>8 public concern?</p> <p>9 MS. NELSON: Object to the form. And</p> <p>10 you're asking her a legal question.</p> <p>11 MR. JAFFREE: Should I apologize for that.</p> <p>12 MS. NELSON: I said, I just object. It's</p> <p>13 a --</p> <p>14 Q. Well, let me ask you this.</p> <p>15 MS. NELSON: I mean, you're trying to</p> <p>16 quote her the law --</p> <p>17 Q. Let me ask you this.</p> <p>18 MS. NELSON: -- without any</p> <p>19 qualifications. I just object to the</p> <p>20 form. You can ask her if she knows.</p> <p>21 MR. JAFFREE: Well, I thought she said</p> <p>22 that --</p> <p>23 Q. Did you finish law school?</p>

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<p>1 A. I did.</p> <p>2 Q. Did you obtain a degree, a juris doctorate in</p> <p>3 law?</p> <p>4 A. I did.</p> <p>5 MS. NELSON: You've asked her that.</p> <p>6 MR. JAFFREE: You said no qualifications.</p> <p>7 I just wanted to make sure that I</p> <p>8 understood her qualification.</p> <p>9 Q. Did you subsequently take and pass some state</p> <p>10 bar examination?</p> <p>11 A. I did. Yes.</p> <p>12 Q. Were you required as part of passing that</p> <p>13 examination to be schooled in at least some</p> <p>14 state's body of law?</p> <p>15 A. Yes.</p> <p>16 Q. And you did pass, right?</p> <p>17 A. Yes.</p> <p>18 Q. And whose bar did you pass?</p> <p>19 A. Alabama.</p> <p>20 Q. Did you take any other bar from any other</p> <p>21 state?</p> <p>22 A. I did not. No. No.</p> <p>23 Q. So you've only been licensed to practice in</p>	<p>1 A. No.</p> <p>2 Q. So as far as you know, you're still a licensed</p> <p>3 attorney?</p> <p>4 A. Yes.</p> <p>5 Q. And as a licensed attorney, are you instructed</p> <p>6 to know some law?</p> <p>7 A. By whom?</p> <p>8 Q. By you.</p> <p>9 A. I mean, am I expected by whom to know some</p> <p>10 law? I don't understand the question. I'm</p> <p>11 sorry.</p> <p>12 Q. Well, let's just say, if the general public</p> <p>13 was aware that you had passed the bar exam and</p> <p>14 you had practiced law for 20 years, that the</p> <p>15 general public would expect you to know some</p> <p>16 law?</p> <p>17 MS. NELSON: Object to the form. You can</p> <p>18 answer.</p> <p>19 A. Yeah. I don't know what he's going for. I</p> <p>20 don't under the question.</p> <p>21 Q. Well, let me ask you --</p> <p>22 A. I mean, I don't -- okay. I don't remember the</p> <p>23 specific courses I took in law school nor the</p>
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<p>1 Alabama?</p> <p>2 A. Yes. I've only been in Alabama.</p> <p>3 Q. Well, that's not totally true. You at least</p> <p>4 spent some time in New Orleans.</p> <p>5 A. I mean, not after I passed --</p> <p>6 Q. I'm just commenting.</p> <p>7 A. -- to take the bar.</p> <p>8 Q. Yeah, I'm just commenting.</p> <p>9 A. I've only lived in Alabama since I finished</p> <p>10 law school.</p> <p>11 Q. Have you at any time from the time you -- by</p> <p>12 the way, when did you pass the bar exam?</p> <p>13 A. If I graduated in May of '87, then June, July,</p> <p>14 August. I guess I would have gotten the</p> <p>15 results in September of '87.</p> <p>16 Q. So --</p> <p>17 A. No, no, no. Because I started work in</p> <p>18 October. Yeah, September or October '87. I</p> <p>19 don't know.</p> <p>20 Q. So you may have been a licensed attorney for</p> <p>21 the last 20 years?</p> <p>22 A. Approximately.</p> <p>23 Q. Have you lost that license for any reason?</p>	<p>1 specifics. So I would -- I would lie if I</p> <p>2 said I did.</p> <p>3 Q. You have a judicial position?</p> <p>4 A. I do.</p> <p>5 Q. And in that position, are you required to</p> <p>6 dispense law?</p> <p>7 A. Dispense law?</p> <p>8 MS. NELSON: Object to the form.</p> <p>9 A. Okay. Yes.</p> <p>10 Q. Okay. So is it correct to assume --</p> <p>11 A. I don't dispense law.</p> <p>12 Q. -- that you should know some law as a judge?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Now, let me ask you this: Would you</p> <p>15 agree that since you are an attorney and have</p> <p>16 been so in good standing for a long time and,</p> <p>17 further, since you are a judge who, as part of</p> <p>18 your responsibilities, is dispensing law, that</p> <p>19 you should not be judged like a layperson</p> <p>20 appointing authority who is not schooled in</p> <p>21 the law, that you should be judged by a higher</p> <p>22 standard? Would you agree with that?</p> <p>23 MS. NELSON: Object to the form. Judged</p>

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<p>1 by whom?</p> <p>2 A. And/or what? No. Because there are certain</p> <p>3 areas of the law, for example, property law,</p> <p>4 that I've never practiced, never researched,</p> <p>5 never -- copyright law, never practiced, never</p> <p>6 researched, never -- so it would be unfair to</p> <p>7 judge me on those, even though I've been to</p> <p>8 law school. Intellectual property law, I've</p> <p>9 never practiced.</p> <p>10 So no, I don't think I should be judged by</p> <p>11 a higher standard if I've never studied that</p> <p>12 body of law just because I went to law school.</p> <p>13 Q. However, you have the capacity to understand</p> <p>14 certain areas of the law that you don't</p> <p>15 specialize in; is that correct?</p> <p>16 MS. NELSON: Object to the form.</p> <p>17 A. Do I have the capacity to understand it? I --</p> <p>18 I don't know. I don't know. I've never</p> <p>19 tried.</p> <p>20 Q. You don't know whether you have the capacity</p> <p>21 to understand certain areas of the law?</p> <p>22 A. Certain areas. I think all areas if I have</p> <p>23 opportunity to learn it and research it.</p>	<p>1 A. It's -- yeah.</p> <p>2 Q. Would you consider yourself a neophyte?</p> <p>3 MS. NELSON: Object to the form.</p> <p>4 A. A neophyte?</p> <p>5 MS. NELSON: What do you mean by that?</p> <p>6 THE WITNESS: New to the law of -- new I</p> <p>7 guess.</p> <p>8 MR. JAFFREE: What does a neophyte mean to</p> <p>9 you?</p> <p>10 MS. NELSON: Well, you asked the</p> <p>11 question. What do you -- what are you</p> <p>12 asking her, is she a neophyte?</p> <p>13 MR. JAFFREE: Well, is this witness unable</p> <p>14 to understand what that term is?</p> <p>15 A. I am. Could you define it for me, please.</p> <p>16 Q. Some person with no knowledge, no skills, just</p> <p>17 a babe in the woods as far as the subject is</p> <p>18 concerned.</p> <p>19 Would you like a clearer definition?</p> <p>20 MS. NELSON: And what -- your question is</p> <p>21 what? Is she -- with that -- with</p> <p>22 your definition, is she a neophyte as</p> <p>23 to what?</p>
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<p>1 Q. So in First Amendment jurisprudence you should</p> <p>2 be considered a neophyte?</p> <p>3 A. Yes.</p> <p>4 MS. NELSON: Object to the form.</p> <p>5 THE WITNESS: I'm sorry, Carol Sue.</p> <p>6 MS. NELSON: I'm just objecting to form.</p> <p>7 You can answer.</p> <p>8 A. Yes, I would be a neophyte because I've never</p> <p>9 dealt with it.</p> <p>10 Q. And in public service litigation, you should</p> <p>11 be considered a neophyte?</p> <p>12 MS. NELSON: Object to the form.</p> <p>13 A. Yes. Because I don't know what public service</p> <p>14 litigation is.</p> <p>15 MS. NELSON: Nor do I.</p> <p>16 Q. And civil rights litigation, you should also</p> <p>17 be considered a neophyte?</p> <p>18 MS. NELSON: Object to the form. She's a</p> <p>19 municipal court judge. She said</p> <p>20 she -- I don't know that she ever said</p> <p>21 she's a civil rights lawyer.</p> <p>22 MR. JAFFREE: Well, I'm asking her.</p> <p>23 Q. Do you know any civil rights law?</p>	<p>1 THE WITNESS: Civil rights. I'm sorry.</p> <p>2 MS. NELSON: Civil Rights law?</p> <p>3 MR. JAFFREE: Yeah, that's my question.</p> <p>4 MS. NELSON: What kind of Civil Rights?</p> <p>5 MR. JAFFREE: Do you want to be the</p> <p>6 witness?</p> <p>7 MS. NELSON: Well, I mean, there are a lot</p> <p>8 of civil rights out there. I'm trying</p> <p>9 to get you -- to understand what your</p> <p>10 asking her and why.</p> <p>11 Q. Title VII litigation. Would you be a neophyte</p> <p>12 in Title VII litigation?</p> <p>13 A. Yes.</p> <p>14 Q. Would you be a neophyte in 1981, 1983</p> <p>15 litigation?</p> <p>16 A. I hate to say I'm neophyte. I mean, I've --</p> <p>17 I've, of course, represent -- yes, I will be a</p> <p>18 neophyte in that, yes.</p> <p>19 Q. All right. How did you learn about the</p> <p>20 judgeship opening?</p> <p>21 A. A lady named Carol Jean Smith.</p> <p>22 Q. Who is she?</p> <p>23 A. She was an assistant attorney general in the</p>

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<p style="text-align: right;">Page 33</p> <p>1 Attorney General's office in 19 -- for several</p> <p>2 years, I'm sure, but in 1998 or '99 when I</p> <p>3 heard about it.</p> <p>4 Q. She told you about there was a position</p> <p>5 available?</p> <p>6 A. She did.</p> <p>7 Q. Was this --</p> <p>8 A. Yes. I'm sorry.</p> <p>9 Q. What was I getting ready to ask you?</p> <p>10 A. No. They told me to say yes or no, and I said</p> <p>11 she did.</p> <p>12 MS. NELSON: That's fine.</p> <p>13 Q. Okay. I thought you was anticipating my</p> <p>14 question.</p> <p>15 Do you know who was in the running for</p> <p>16 this position prior to you're being hired in</p> <p>17 that position?</p> <p>18 A. No.</p> <p>19 Q. Was it another black female that was</p> <p>20 considered as far as you know?</p> <p>21 A. As far as I know now. I didn't know then who</p> <p>22 was in the running.</p> <p>23 Q. But you do know now. Do you know what her</p>	<p style="text-align: right;">Page 35</p> <p>1 her name was -- this person that works in your</p> <p>2 same department told you about a job opening?</p> <p>3 A. Carol Jean Smith. Yes, she did. She wasn't</p> <p>4 in my department. But, yes, she did tell me</p> <p>5 about the --</p> <p>6 Q. And then you applied for it?</p> <p>7 A. I did.</p> <p>8 Q. How?</p> <p>9 A. I don't remember. When you say "how," I</p> <p>10 think -- I assume I sent a resume. I don't</p> <p>11 remember. I really don't. I've thought about</p> <p>12 it several times, and I don't remember.</p> <p>13 Q. In response to my request for production, did</p> <p>14 you have to look back through your documents</p> <p>15 and see if you sent a resume or an application</p> <p>16 or anything?</p> <p>17 A. I mean, I don't -- I don't know. I don't -- I</p> <p>18 wouldn't have kept it. If I sent them a</p> <p>19 resume, I would have just sent them a standard</p> <p>20 copy of my resume at the time and a cover</p> <p>21 letter.</p> <p>22 Q. So you don't know how the City learned about</p> <p>23 your interest in the job?</p>
<p style="text-align: right;">Page 34</p> <p>1 name was?</p> <p>2 A. Yes.</p> <p>3 Q. What's her name?</p> <p>4 A. Kalia Lane.</p> <p>5 Q. Kalia Lane?</p> <p>6 A. Yes.</p> <p>7 Q. And she was considered for the position?</p> <p>8 A. That's my understanding.</p> <p>9 Q. Now, did you learn about it at the time she</p> <p>10 was being considered or after she had been</p> <p>11 rejected?</p> <p>12 MS. NELSON: She just answered that. You</p> <p>13 can answer again.</p> <p>14 A. Did I -- did I learn about her?</p> <p>15 Q. Yeah. Now that you know that she was applying</p> <p>16 for the position and --</p> <p>17 A. Right.</p> <p>18 Q. -- was seriously considered, at the time you</p> <p>19 learned about it, was it during the time she</p> <p>20 was being considered or subsequent to her</p> <p>21 consideration? If you know.</p> <p>22 A. Yeah, I don't know.</p> <p>23 Q. All right. So this -- I forgot what you said</p>	<p style="text-align: right;">Page 36</p> <p>1 A. No, I don't know specifically how. I assume</p> <p>2 they got my letter and my resume.</p> <p>3 Q. Okay. Well, do you know when you sent that</p> <p>4 letter or resume or other document?</p> <p>5 A. No, not specific dates, I don't.</p> <p>6 Q. Is it possible that you didn't send anything?</p> <p>7 A. I don't think that's possible, but I --</p> <p>8 Q. But you don't know?</p> <p>9 MS. NELSON: I think she's asked and</p> <p>10 answered.</p> <p>11 A. Yeah. I don't think -- how would they know me</p> <p>12 if I didn't send a resume?</p> <p>13 Q. Well, you could have sent a letter.</p> <p>14 A. Well, you said that I didn't send anything.</p> <p>15 So no, I don't think that's possible.</p> <p>16 Q. You could have made a phone call.</p> <p>17 A. No, I don't think that's possible.</p> <p>18 Q. Somebody could have selected you as opposed to</p> <p>19 you selecting them?</p> <p>20 MS. NELSON: Object to the form. Is that</p> <p>21 a question?</p> <p>22 MR. JAFFREE: She asked me a question.</p> <p>23 I'm responding. I'm giving her</p>

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<p>1 hypotheticals.</p> <p>2 A. I don't know how they would know me. I didn't</p> <p>3 live here.</p> <p>4 Q. Okay. Well, so somehow you submitted</p> <p>5 something --</p> <p>6 A. Right.</p> <p>7 Q. -- I guess for they --</p> <p>8 A. I know I did. I don't know what.</p> <p>9 Q. -- learned about you somehow.</p> <p>10 And then what happened?</p> <p>11 A. I was interviewed and --</p> <p>12 Q. I mean, you submitted something; you was</p> <p>13 interviewed. Did anybody contact you?</p> <p>14 A. Yes, somebody contacted me, I'm sure.</p> <p>15 Q. Who contacted you?</p> <p>16 A. I don't remember.</p> <p>17 Q. Was it a male, female?</p> <p>18 A. I don't remember.</p> <p>19 Q. Was it the mayor of the city?</p> <p>20 A. I don't remember who contacted me to meet.</p> <p>21 Q. Or was it somebody who was in a position to</p> <p>22 contact you and talk to you about this</p> <p>23 position?</p>	<p>1 has been asking my clients. I try to avoid</p> <p>2 some of the preliminary stuff.</p> <p>3 But are you on any medication that would</p> <p>4 affect your memory?</p> <p>5 A. Not that I'm aware.</p> <p>6 Q. Do you have any disability that would affect</p> <p>7 your memory?</p> <p>8 A. Age.</p> <p>9 Q. Or affect your ability to answer truthfully to</p> <p>10 the questions I'm going to ask you?</p> <p>11 A. Age is the only thing.</p> <p>12 Q. Are you on any kind of drugs or alcohol or</p> <p>13 anything would affect your answering</p> <p>14 truthfully to the questions I'm going to ask</p> <p>15 you?</p> <p>16 A. No.</p> <p>17 Q. So other than age, you don't think there's</p> <p>18 anything else that would affect your memory</p> <p>19 that would cause you not to be able to respond</p> <p>20 to the questions I'm going to ask you?</p> <p>21 A. Stress.</p> <p>22 Q. Are you under stress, now?</p> <p>23 A. Yes.</p>
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<p>1 MS. NELSON: She said she didn't remember.</p> <p>2 A. Yeah, I don't remember who I -- I really don't</p> <p>3 remember who I talked to.</p> <p>4 MR. JAFFREE: Well, maybe she remember the</p> <p>5 status of the person.</p> <p>6 Q. Or somebody contacted you?</p> <p>7 A. I don't remember them so I can't remember</p> <p>8 their status. Somebody contacted --</p> <p>9 Q. You're quite sure that it wasn't a maintenance</p> <p>10 worker that contacted you?</p> <p>11 A. I don't know.</p> <p>12 Q. All right. Well, what did they tell you when</p> <p>13 they contacted you?</p> <p>14 A. I don't remember. I -- I don't remember. I</p> <p>15 mean, I just assume it's just set up an</p> <p>16 interview, like when you apply for a job and</p> <p>17 people call and say, we have you scheduled for</p> <p>18 interview.</p> <p>19 Q. Do you generally have difficulty with your</p> <p>20 memory?</p> <p>21 MR. JAFFREE: Object to the form.</p> <p>22 A. Yes, as I get older, Mr. Jaffree.</p> <p>23 Q. Let me ask you the question that your counsel</p>	<p>1 Q. Why are you under stress?</p> <p>2 A. Because I don't understand your questions.</p> <p>3 Q. Okay. I'm sorry. Well, I'm probably older</p> <p>4 than you.</p> <p>5 Anyway, so somebody called you. And did</p> <p>6 they ask you to come in for an interview?</p> <p>7 A. Yes.</p> <p>8 Q. And do you remember when you came in for the</p> <p>9 interview?</p> <p>10 A. Not the specific date, no, sir, I don't.</p> <p>11 Q. Do you remember what month it was?</p> <p>12 A. No, sir, I don't.</p> <p>13 Q. Do you remember what year it was?</p> <p>14 A. 1999.</p> <p>15 Q. Good. Now, do you remember what season of the</p> <p>16 year it was?</p> <p>17 A. No, sir, I don't.</p> <p>18 Q. Spring, fall, winter?</p> <p>19 A. I feel bad, but I really don't.</p> <p>20 Q. Let me see if I can help you. You think you</p> <p>21 may have started sometime in November of 1999.</p> <p>22 A. Right. Yes.</p> <p>23 Q. How many months was it before you started?</p>

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<p>1 A. That what?</p> <p>2 Q. That you came in for an interview.</p> <p>3 A. How many months before? I mean, if -- if I</p> <p>4 say two or three, I would be lying because</p> <p>5 I -- I mean, I wouldn't be lying. I don't</p> <p>6 know.</p> <p>7 Q. I'm not going to consider you're lying.</p> <p>8 MS. NELSON: If you remember.</p> <p>9 Q. Give me your best guess.</p> <p>10 A. I don't remember. I -- I sent in a resume.</p> <p>11 They called me and said you have an</p> <p>12 interview. And I came.</p> <p>13 Q. All right. Do you remember who you</p> <p>14 interviewed before?</p> <p>15 A. I interviewed -- no. I interviewed -- no.</p> <p>16 Now, I can tell you, they were employees of</p> <p>17 the City of Dothan. I don't specifically</p> <p>18 remember who they were now, like, you know --</p> <p>19 Q. Do you know how long the interview process</p> <p>20 took?</p> <p>21 A. The entire interview process or each</p> <p>22 interview?</p> <p>23 Q. How many interviews did you submit to?</p>	<p>1 the second interview committee or the same</p> <p>2 people or --</p> <p>3 A. I think it was a combination of people that I</p> <p>4 had met and maybe some new people that --</p> <p>5 Q. How many --</p> <p>6 A. I don't remember.</p> <p>7 Q. How many on the second interview committee,</p> <p>8 any idea?</p> <p>9 A. I saw three or four people.</p> <p>10 Q. Did they ask you any different questions?</p> <p>11 A. No. And in fact --</p> <p>12 Q. Same questions?</p> <p>13 A. Well, yeah. I think that some of the people</p> <p>14 that I met the second time, I had not met in</p> <p>15 the first interview. So I'm sure we did go</p> <p>16 back over the -- and the all questions were</p> <p>17 about my resume and why did I want the job and</p> <p>18 that type stuff.</p> <p>19 Q. Did you think you submitted to a third</p> <p>20 interview?</p> <p>21 A. Yes, I do.</p> <p>22 Q. And how long was that after the second</p> <p>23 interview?</p>
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<p>1 A. I think about three.</p> <p>2 Q. Well, what about the first one, any idea how</p> <p>3 long it took?</p> <p>4 A. No idea how long it took.</p> <p>5 Q. Any idea what questions they asked you?</p> <p>6 A. They asked -- they had my resume. They asked</p> <p>7 me about stuff that was on my resume, and they</p> <p>8 just asked me questions about my legal</p> <p>9 experience and, you know, what I -- why did I</p> <p>10 want the job.</p> <p>11 Q. But did you tell them that you were a neophyte</p> <p>12 in municipal law?</p> <p>13 A. I don't remember.</p> <p>14 Q. How many of these people that you don't</p> <p>15 remember were there that were asking you the</p> <p>16 questions on the first interview?</p> <p>17 A. Approximately three or four.</p> <p>18 Q. Okay. How long after the first interview did</p> <p>19 you submit to a second interview?</p> <p>20 A. Very shortly thereafter, within a matter of</p> <p>21 weeks. I don't -- no, I don't remember</p> <p>22 specifically.</p> <p>23 Q. Do you remember, was it different people on</p>	<p>1 A. Very shortly thereafter. I mean, it -- they</p> <p>2 all went very quickly.</p> <p>3 Q. So all three of the interviews were very close</p> <p>4 together, compressed?</p> <p>5 A. Yes.</p> <p>6 Q. To the best of your recollection?</p> <p>7 A. Yes. Thank you.</p> <p>8 Q. And do you remember who it was that</p> <p>9 administered the third interview?</p> <p>10 MS. NELSON: Object to the form.</p> <p>11 "Administered?"</p> <p>12 Q. Do you understand what I mean by administered?</p> <p>13 It's not a term of art. If it will be</p> <p>14 helpful, I will say, who participated in the</p> <p>15 third? I'm not trying to use words to trick</p> <p>16 you. Who participated in the third</p> <p>17 interview?</p> <p>18 A. Me and about three or four other people.</p> <p>19 Q. Same people?</p> <p>20 A. I don't remember.</p> <p>21 Q. Same questions?</p> <p>22 A. I think so.</p> <p>23 Q. So pretty much three times you submitted to</p>

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<p style="text-align: right;">Page 45</p> <p>1 interviews, it was some of the same people and</p> <p>2 they kept repeating the questions that they</p> <p>3 asked you?</p> <p>4 A. To the best of my memory.</p> <p>5 Q. Does that seem odd to you?</p> <p>6 A. No.</p> <p>7 Q. Does it seem redundant?</p> <p>8 A. No. I mean, all --</p> <p>9 Q. Does that seem meaningless?</p> <p>10 A. -- basically the same thing. No.</p> <p>11 Q. Well, when did you discover that you had the</p> <p>12 position?</p> <p>13 A. When somebody called me or sent me a letter.</p> <p>14 I don't -- I mean, I was notified that I had</p> <p>15 it -- that I had it. I don't remember how.</p> <p>16 Q. All right. Let me shift gears here, and I'll</p> <p>17 get back to that, because I don't want to go</p> <p>18 too far afield before I -- let me see if I</p> <p>19 could give the court reporter more work to do.</p> <p>20 MR. JAFFREE: And I'm apologizing on the</p> <p>21 Record for the lack of professionalism</p> <p>22 in my Notice of a Deposition. When</p> <p>23 you're rushing and doing three things</p>	<p style="text-align: right;">Page 47</p> <p>1 But, you know, I do have documents</p> <p>2 that she was able to locate that you</p> <p>3 asked for that was -- but they're not</p> <p>4 otherwise objectionable. But with</p> <p>5 that, we'll go forward.</p> <p>6 Q. Was there a reason you didn't bring with you</p> <p>7 this memo dated December the 1st from</p> <p>8 Lieutenant Garrett?</p> <p>9 A. We couldn't find one.</p> <p>10 Q. You couldn't find one?</p> <p>11 A. No.</p> <p>12 Q. Did you contact Lieutenant Garrett and ask him</p> <p>13 if he had a copy of his memo?</p> <p>14 A. No.</p> <p>15 Q. Did you contact Captain John Gardner --</p> <p>16 MS. BRACKIN: Givens.</p> <p>17 MR. JAFFREE: Givens? It's not Gardner?</p> <p>18 MS. BRACKIN: Captain Givens.</p> <p>19 Q. It that the reason because there was no letter</p> <p>20 to John Gardner?</p> <p>21 A. We couldn't find a memo from Lieutenant Cliff</p> <p>22 Garrett to a Captain John Gordon -- Gardner.</p> <p>23 Q. So it may have been a misprint on a name</p>
<p style="text-align: right;">Page 46</p> <p>1 at the same time and don't have a</p> <p>2 secretary, sometimes you have to</p> <p>3 improvise and compromise on your time.</p> <p>4 But anyway, be that as it may.</p> <p>5 Q. Did anyone give you a copy or tell you about a</p> <p>6 notice of this deposition?</p> <p>7 A. Yes. Why?</p> <p>8 Q. And did they indicate that there was a series</p> <p>9 of documents that you were supposed to bring</p> <p>10 with you?</p> <p>11 A. Yes.</p> <p>12 Q. Well, let's go over them. Number one on this</p> <p>13 notice was a memo dated somewhere around</p> <p>14 December the 1st from Lieutenant Cliff</p> <p>15 Garrett. Did you bring that?</p> <p>16 A. No.</p> <p>17 MS. NELSON: If I could state for the</p> <p>18 Record, you did send me an e-mail</p> <p>19 notice. I did provide it to the</p> <p>20 judge, ask her to look for these</p> <p>21 documents. I did want to serve you</p> <p>22 with just some general objections.</p> <p>23 But you can ask her about each one.</p>	<p style="text-align: right;">Page 48</p> <p>1 there. Okay.</p> <p>2 What about letters sent to you by Fran</p> <p>3 Bailey when she resigned?</p> <p>4 A. I didn't -- I didn't have one.</p> <p>5 Q. Do you remember Nancy discussing that letter</p> <p>6 yesterday during her deposition? Nancy said</p> <p>7 she looked at it and Ms. Bailey shared her a</p> <p>8 copy?</p> <p>9 MS. NELSON: There was one in her</p> <p>10 personnel file that I produced to you,</p> <p>11 but I don't know that Judge Gordon had</p> <p>12 a copy of it.</p> <p>13 Q. You want to look at it, Judge?</p> <p>14 (Witness looked at document.)</p> <p>15 Q. Did you -- did you have a copy of this letter</p> <p>16 that she said that she addressed to Nancy</p> <p>17 concerning her resignation plans?</p> <p>18 A. No.</p> <p>19 Q. Well, if Nancy testified yesterday that</p> <p>20 Ms. Bailey said part of the reason why she was</p> <p>21 resigning was because of the disparate</p> <p>22 treatment between magistrates, would you be in</p> <p>23 a position to dispute that testimony?</p>

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<p>1 MS. NELSON: Object to the form. And I</p> <p>2 don't believe that was her testimony.</p> <p>3 But you can answer.</p> <p>4 Q. Well, if that was her testimony, would you be</p> <p>5 in a position to dispute that?</p> <p>6 A. Do I dispute it? Is that your question?</p> <p>7 Q. Yeah.</p> <p>8 A. Would I be in a position to --</p> <p>9 Q. One of the reasons that Fran Bailey indicated</p> <p>10 that she was resigning was because of</p> <p>11 disparate treatment that she was --</p> <p>12 A. That she was subjected to, or somebody else</p> <p>13 was subjected to?</p> <p>14 Q. Well, that she experienced?</p> <p>15 MS. NELSON: Object to the form.</p> <p>16 A. That I treated her differently than another</p> <p>17 similarly situated typist clerk?</p> <p>18 Q. No. The disparate treatment of magistrates?</p> <p>19 A. She wasn't a magistrate.</p> <p>20 Q. Well, maybe she observed magistrates?</p> <p>21 A. I don't --</p> <p>22 Q. Was she in a position to observe magistrate</p> <p>23 treatment?</p>	<p>1 differently.</p> <p>2 MR. JAFFREE: Is this the defendants'</p> <p>3 response to request number two? Is</p> <p>4 that submitted as defendants'</p> <p>5 response?</p> <p>6 MS. NELSON: Well, you asked for a letter</p> <p>7 sent to Judge Gordon by Fran Bailey</p> <p>8 and -- upon her resignation. And to</p> <p>9 my knowledge, that is a letter to</p> <p>10 Judge Gordon.</p> <p>11 MR. JAFFREE: Can you mark this as</p> <p>12 Plaintiffs' Exhibit 1? I guess I</p> <p>13 should mark it, shouldn't I?</p> <p>14 MS. NELSON: I think it will go faster if</p> <p>15 you marked it.</p> <p>16 (Plaintiffs' Exhibit 1 was marked</p> <p>17 for identification.)</p> <p>18 MR. JAFFREE: And at least for the Record,</p> <p>19 Plaintiffs' Exhibit 1 is a letter</p> <p>20 dated July 15th, '07, from Fran Bailey</p> <p>21 to Defendant Judge Gordon.</p> <p>22 Q. Item number three, I asked for, was all memos</p> <p>23 issued by you to the Judicial Department</p>
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<p>1 A. I don't -- I don't -- she was a clerk typist.</p> <p>2 She was a file clerk.</p> <p>3 Q. And my question, was she in a position to</p> <p>4 observe magistrates?</p> <p>5 A. Physically or assigned to a position or --</p> <p>6 Q. Well, I mean, did she work along with them;</p> <p>7 did they work in the same physical --</p> <p>8 A. Location?</p> <p>9 Q. -- place?</p> <p>10 A. Yes.</p> <p>11 Q. Were they working in close proximity to each</p> <p>12 other?</p> <p>13 A. They were all in the same office.</p> <p>14 Q. Could they observe each other on a regular</p> <p>15 basis?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So you think that Ms. Bailey may not</p> <p>18 have been in a position to observe magistrates</p> <p>19 being treated differently?</p> <p>20 MS. NELSON: Object to the form.</p> <p>21 A. I do -- yes. I do object to that or dispute</p> <p>22 that she could observe them treating</p> <p>23 differently because I didn't treat them</p>	<p>1 and/or staff during the period of April the</p> <p>2 1st, 2001, until December the 31st, 2005.</p> <p>3 Did you produce the memos that were</p> <p>4 sent to -- well, were there any missing, memos</p> <p>5 that you could have --</p> <p>6 MS. NELSON: Well, I'm about to provide to</p> <p>7 you --</p> <p>8 MR. JAFFREE: Well, while you were doing</p> <p>9 that, I was just trying to ask this</p> <p>10 witness --</p> <p>11 MS. NELSON: Oh, excuse me.</p> <p>12 MR. JAFFREE: -- if she recalls whether or</p> <p>13 not some was missing from the group</p> <p>14 that's she's given me.</p> <p>15 A. Not specifically.</p> <p>16 MS. NELSON: I'll object to the form.</p> <p>17 Missing from what? You don't even</p> <p>18 know what's she's giving you.</p> <p>19 MR. JAFFREE: Well, I'm asking her, is the</p> <p>20 memo -- what she's giving me complete,</p> <p>21 or if there's some memos that she</p> <p>22 issued to the staff that she don't</p> <p>23 have anymore.</p>

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<p>1 MS. NELSON: And how do you -- you're 2 assuming -- 3 MR. JAFFREE: I'm not assuming anything. 4 I'm asking. I mean, maybe she would 5 know that there are some memos that 6 somehow got destroyed or that she 7 can't find or don't have. I'm asking 8 her the question. I mean, she's 9 competent to the extent that she knows 10 whether or not any of the memos that 11 she issued to the staff are not 12 included in this group she's giving 13 me. 14 Q. You are competent to answer that, aren't you? 15 MS. NELSON: Well, and I'm -- and if I 16 could just state for the Record, some 17 memos have been provided in the 18 documents I've previously given to 19 you. I mean, she made search of 20 other -- 21 MR. JAFFREE: Not many. 22 MS. NELSON: -- memos but -- 23 MR. JAFFREE: I mean, those boxes of</p>	<p>1 diligent and doing a very good job in helping 2 you. But if I could get a response to my 3 question: 4 Are you aware of any memos that you have 5 submitted to the staff that's not included 6 with this group that you've given me? 7 A. No. 8 Q. Okay. 9 (Plaintiffs' Exhibit 2 was marked 10 for identification.) 11 Q. So now, in item number four, I asked for a 12 series of documents. And I may have asked for 13 these same documents in our request for 14 production. If I can get to item number four 15 since we're talking about request for 16 production, Judge Gordon, were you aware that 17 on or about December the 25th, I forwarded to 18 your attorney a request for production of 19 documents? 20 MS. NELSON: I'm not sure what you're 21 showing her. 22 (Brief pause) 23 MS. NELSON: You're showing her a request</p>
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<p>1 documents that took me forever to go 2 through doesn't have very many memos. 3 MS. NELSON: Well, within personnel files, 4 there are memos. There are memos. I 5 mean, she made a diligent search of 6 memos that she could locate or could 7 be located. Now, whether it covers 8 every -- 9 MR. JAFFREE: Can I get her to testify to 10 that? 11 MS. NELSON: You can. If you're asking -- 12 MR. JAFFREE: I mean, your attorney is 13 trying -- 14 MS. NELSON: -- it a way that assumes 15 she -- 16 MR. JAFFREE: I have so many -- I have to 17 admire your attorney. 18 (Court reporter interrupted for 19 clarification.) 20 MR. JAFFREE: We're ignoring your 21 difficulty, and I apologize for that, 22 at least on my part. 23 Q. I appreciate your attorney trying to be very</p>	<p>1 of documents propounded to the 2 Defendant City of Dothan? 3 MR. JAFFREE: Yes. I'm asking her, was 4 she aware that I propounded a request 5 for those documents. 6 MS. NELSON: Again, I don't know. It's to 7 the City. I don't know if she -- do 8 you know? 9 MR. JAFFREE: I'm -- 10 MS. NELSON: Yeah. 11 Q. The City doesn't have any fingers and arms, so 12 the City asked somebody. So I'm going to ask 13 you some questions about that. 14 MS. NELSON: Well, number one, I don't 15 know -- you didn't get an answer from 16 her if she was aware that that had 17 been propounded to the City. 18 Q. Well, were you? 19 A. No. 20 Q. You never saw that document before? 21 A. No. 22 Q. Do you know from your own knowledge who with 23 the City responded to that?</p>

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1 A. No.
 2 **Q. I know they responded through the attorney.**
 3 **Well, do you know who the appointed authority**
 4 **is for the magistrates' office?**
 5 A. Point of authority for the --
 6 **Q. The appointing authority. Who is the**
 7 **appointing authority for the magistrates'**
 8 **office?**
 9 A. I don't understand the question.
 10 MS. NELSON: The appointing authority?
 11 MR. JAFFREE: Yeah, the appointing
 12 authority.
 13 **Q. Are you familiar with that term, "appointing**
 14 **authority?"**
 15 A. Magistrates aren't appointed. They're
 16 employed.
 17 **Q. Who is the appointing authority? Are you the**
 18 **appointing authority? Is that a title you**
 19 **occupy, appointing authority?**
 20 A. No.
 21 **Q. You don't occupy that title?**
 22 A. I don't -- we don't appoint magistrates.
 23 They're employed. It's not an appointment.

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1 **Q. Do the personnel rules refer to an appointing**
 2 **authority?**
 3 MS. NELSON: If you know.
 4 A. I don't know. I don't know if -- if the
 5 personnel rules refer to an appointing
 6 authority, no.
 7 **Q. You don't.**
 8 (Brief pause)
 9 **Q. Are you're familiar with the City of Dothan**
 10 **Civil Service Act?**
 11 A. No.
 12 **Q. Huh?**
 13 A. No.
 14 **Q. You're not familiar with this Civil Service**
 15 **Act?**
 16 A. No. I mean, I'm familiar with the name, Civil
 17 Service Act, but not the -- what it -- I'm not
 18 familiar with the specifics of the City of
 19 Dothan's Civil Service Act.
 20 **Q. Let me show you what it says about Section 21**
 21 **of the Civil Service Act. And can you read**
 22 **the first sentence of that section?**
 23 A. First sentence of Section 21, Discharges?

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1 **Q. Yeah.**
 2 A. "The appointing authority may discharge an
 3 employee in the classified service whenever he
 4 considers the good of the service and the
 5 welfare of the City will be best served,
 6 thereby, by making" --
 7 **Q. Can you stop right there?**
 8 A. I didn't finish the sentence.
 9 **Q. Well, go ahead. I'm sorry.**
 10 A. "Thereby, by making and filing in his office
 11 an order to that effect, together with the
 12 reason defined for the discharge. However,
 13 the power to discharge shall not be
 14 capriciously or arbitrarily exercised in any
 15 case."
 16 **Q. Okay. Can you stop now, or are you still**
 17 **reading the sentence.**
 18 A. Well, you asked me to read the first sentence
 19 and --
 20 **Q. Well, I'm --**
 21 A. -- I've not finished the sentence.
 22 **Q. But I'm empowering you to not have to read the**
 23 **whole sentence?**

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1 A. Okay.
 2 **Q. Okay? Now, if I could have the document**
 3 **back.**
 4 MS. NELSON: Can I see just what you're
 5 showing her here?
 6 (Brief recess)
 7 MR. JAFFREE: I don't have time for
 8 counsel to read the whole document.
 9 MS. NELSON: Well, I mean, you're showing
 10 her a document that I'm not sure what
 11 is. It says Civil Service Act, but I
 12 have no idea if it's --
 13 MR. JAFFREE: Are you not familiar with
 14 that act --
 15 MS. NELSON: Well, I don't know if --
 16 MR. JAFFREE: -- that's been part of this
 17 case the whole time?
 18 MS. NELSON: I don't know that you've ever
 19 asked me to produce it. I don't know
 20 if this is the one -- if this is the
 21 most current one.
 22 MR. JAFFREE: Well, I mean, sanction me --
 23 MS. NELSON: Or the one in effect nor or

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1 at the time.
 2 MR. JAFFREE: Well, sanction me if somehow
 3 I'm misleading -- giving people wrong
 4 information.
 5 MS. NELSON: Well, I have a right to look
 6 to see what you're showing her.
 7 **Q. But let me ask you this: Having read that,**
 8 **are you now familiar with the term "appointing**
 9 **authority?"**
 10 A. No.
 11 **Q. You're still not familiar with that term?**
 12 A. I -- I didn't read it in context.
 13 **Q. Well, are you familiar with Ms. Mary Brackin?**
 14 A. Familiar?
 15 **Q. Are you familiar with Ms. Mary Brackin, the**
 16 **plaintiff here next to me?**
 17 A. No.
 18 **Q. Excuse me. You didn't mean to say no. Do you**
 19 **know Mary Brackin, the plaintiff, next to me?**
 20 A. Do I know her?
 21 **Q. Have you ever heard of her?**
 22 A. Yes.
 23 **Q. Okay. And you know that she was a civil**

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1 **service employee in the classified service?**
 2 A. Yes.
 3 **Q. And you did have some role in bringing about**
 4 **the termination of Ms. Brackin's employment**
 5 **with the City of Dothan?**
 6 A. Yes. And her hiring.
 7 **Q. Pardon?**
 8 A. And her hiring, also.
 9 **Q. Well, I didn't ask you that, but thanks for**
 10 **that information.**
 11 A. Okay.
 12 **Q. Now, this section says, appointing authority**
 13 **is the one that should bring about the**
 14 **discharge of a civil service employee. So in**
 15 **that context, would you agree that you are the**
 16 **appointing authority?**
 17 MS. NELSON: Object to the form.
 18 A. In that context, I always thought the city
 19 manager was the ultimate authority. But I'm a
 20 department head and she was in my department,
 21 so yes --
 22 **Q. You mean, this is the first --**
 23 A. -- in that context.

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1 **Q. As we sit here now, this is the first time**
 2 **that you realized that you was considered an**
 3 **appointing authority?**
 4 A. No. In this context. I've never seen this
 5 document before.
 6 **Q. Well, on what context did you think you was an**
 7 **appointing authority?**
 8 A. I never -- I just always thought of myself as
 9 a department head. If that's another term
 10 for -- is appointing authority another term
 11 for department head?
 12 **Q. Well, what do you think?**
 13 A. I don't know. Does it define it in here,
 14 appointing authority?
 15 MS. NELSON: I don't think it does.
 16 **Q. Well, take my -- Judge, take my word you are**
 17 **appointing authority.**
 18 MS. NELSON: Take your word that she's the
 19 appointing authority?
 20 MR. JAFFREE: Yeah. I think there's no
 21 dispute on this.
 22 MS. NELSON: Well, I think --
 23 MR. JAFFREE: I think your counsel can

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1 stipulate to this.
 2 MS. NELSON: Well, in the act --
 3 MR. JAFFREE: Otherwise, the --
 4 MS. NELSON: -- you're showing us does
 5 define the appointing authority as
 6 department head, but you're just
 7 picking out one --
 8 MR. JAFFREE: Well, because I didn't think
 9 we was going to get stuck on that
 10 word. I just thought we all knew that
 11 she was appointing authority. I mean,
 12 I hope we don't have to go down this
 13 road for everything.
 14 **Q. So now let me get back to the question I was**
 15 **asking you about appointing authority. As the**
 16 **appointing authority, would you be in charge**
 17 **of the magistrates' office?**
 18 A. Yes. As department head.
 19 **Q. Okay. Would these documents that I asked for**
 20 **in my request for production be under your**
 21 **department?**
 22 MS. NELSON: She doesn't even know what
 23 you asked for. And many of them deal

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<p>1 with personnel files. And no, they're</p> <p>2 not in her department.</p> <p>3 MR. JAFFREE: Well, can she say that, or</p> <p>4 do you want change seats?</p> <p>5 MS. NELSON: Well, she said she had not</p> <p>6 seen this. You can take one by one</p> <p>7 and ask her.</p> <p>8 MR. JAFFREE: Let me -- if --</p> <p>9 Q. Let me ask you this: Were you made aware,</p> <p>10 either by your attorney or someone else by --</p> <p>11 MS. NELSON: And I'm going to object to</p> <p>12 any discussion that she may have had</p> <p>13 with her attorney.</p> <p>14 MR. JAFFREE: Well, you can object to any</p> <p>15 discussions. Some discussions are</p> <p>16 relevant.</p> <p>17 Q. Were you aware from anyone that, as part of my</p> <p>18 request for production, I asked for production</p> <p>19 of resumes and applications for the employment</p> <p>20 and acceptance/rejection notices of all other</p> <p>21 associated -- and all other associated</p> <p>22 documents of persons considered for the</p> <p>23 position currently occupied by Defendant Judge</p>	<p>1 those documents and didn't?</p> <p>2 MS. NELSON: Object to the form.</p> <p>3 A. No.</p> <p>4 (Brief pause)</p> <p>5 Q. Number four, I asked for -- to produce the</p> <p>6 complete personnel file of Defendant Judge</p> <p>7 Gordon. That's you, correct?</p> <p>8 A. Yes.</p> <p>9 Q. In reference to personnel files, include</p> <p>10 application for employment, any rating system</p> <p>11 employed by the City, any term where she's</p> <p>12 placed on the list of persons eligible for</p> <p>13 consideration, and all performance evaluations</p> <p>14 and all job-related memos, notes given to her</p> <p>15 and/or prepared in reference to some aspects</p> <p>16 of her employment, personnel action notices,</p> <p>17 disciplinary notices, termination notices,</p> <p>18 promotion notices, rate of pay notices, et</p> <p>19 cetera.</p> <p>20 Now, do you -- were you --</p> <p>21 MS. NELSON: That has been produced.</p> <p>22 MR. JAFFREE: Well, some of it. I don't</p> <p>23 have any list of -- I don't have any</p>
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<p>1 Gordon during the period that Defendant Gordon</p> <p>2 was considered for the position?</p> <p>3 A. No, I was not aware of that.</p> <p>4 Q. Do you know who I should hold responsible for</p> <p>5 that -- not giving me those documents?</p> <p>6 A. No, I don't.</p> <p>7 Q. So somebody else with the City was responsible</p> <p>8 for producing that information that didn't,</p> <p>9 but somebody should be held accountable,</p> <p>10 right, because I don't have these documents?</p> <p>11 MS. NELSON: I objected to them, and she</p> <p>12 doesn't have those documents.</p> <p>13 Q. All right. Now, I asked for the resumes of</p> <p>14 other applicants for employment and acceptance</p> <p>15 and rejection notices and all other associated</p> <p>16 documents of all persons considered for the</p> <p>17 position of municipal judge for the City of</p> <p>18 Dothan during the period that Kalia Spears</p> <p>19 Lane was considered for the position.</p> <p>20 Did anybody tell you that I wanted those</p> <p>21 documents?</p> <p>22 A. No.</p> <p>23 Q. Do you know who is responsible for producing</p>	<p>1 rating system of the people that was</p> <p>2 considered and placed on that list.</p> <p>3 MS. NELSON: Well, we produced all we had.</p> <p>4 MR. JAFFREE: Okay. Fine.</p> <p>5 Q. Number five, I said, produce complete</p> <p>6 personnel files of all employees who Defendant</p> <p>7 Gordon recommended for employment termination</p> <p>8 regardless of whether or not they were</p> <p>9 actually terminated during inclusive period</p> <p>10 beginning with the date of Defendant Gordon's</p> <p>11 hire as a municipal judge up to and including</p> <p>12 the dates that these requests are being</p> <p>13 answered.</p> <p>14 MS. NELSON: We have produced you every</p> <p>15 magistrates' file.</p> <p>16 Q. Was that production request presented to your</p> <p>17 attention?</p> <p>18 A. To my --</p> <p>19 Q. To your attention, this number five?</p> <p>20 A. I wouldn't have their personnel files. No.</p> <p>21 Q. Your office doesn't maintain the personnel</p> <p>22 files?</p> <p>23 A. No.</p>

17 (Pages 65 to 68)

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1 **Q. Number nine. It says, produce all written**
2 **documents regardless of whether these**
3 **documents were given to the City of Dothan**
4 **employees -- City of Dothan employees which**
5 **informed and/or referenced the informing of**
6 **such employees that the restrictions on**
7 **contacting former Magistrate Mary Turner has**
8 **been lifted.**

9 **Did you produce those documents?**

10 MS. NELSON: I have responded to all of
11 that that that was, again, given to
12 the City.

13 MR. JAFFREE: I didn't get a response to
14 number nine.

15 MS. NELSON: Yes, you -- well, I didn't
16 know we were going to go over this
17 today. If we can take a break and I
18 can go get my file. I did respond to
19 all of that. Do you have my
20 responses?

21 MR. JAFFREE: For this request for
22 production? No, I don't think so.
23 You want to -- can we do this at

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1 exist.

2 **Q. Let me ask you this with respect to nine.**

3 MS. NELSON: She doesn't even know what
4 nine is.

5 **Q. All right. Look at nine.**

6 MS. NELSON: Well, let me look at it
7 first. Again, I'd like to have my
8 objections in front of me.

9 MR. JAFFREE: Well, I'll suspend this, and
10 we'll resume this at lunchtime when
11 you have your objections. Okay?

12 MS. NELSON: To my knowledge, we have
13 answered that.

14 MR. JAFFREE: Well, let me ask the judge
15 about this.

16 **Q. Did you submit a letter telling people that**
17 **the restrictions for contacting Ms. Turner had**
18 **been lifted?**

19 MS. NELSON: No. You're just -- without
20 any context.

21 **Q. Do you need context for that, Judge?**

22 MS. NELSON: I would like to have the
23 benefit of my responses but -- which

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1 lunchtime; you get your files and
2 we'll talk about this?
3 MS. NELSON: Well, it's just ridiculous to
4 go over this witness -- you're reading
5 document requests which were
6 propounded to the City, which I have
7 either answered or filed objections.
8 And I couldn't even hear -- understand
9 what you were asking her.

10 MR. JAFFREE: Here's my problem. I just
11 got these documents, I think, last
12 Friday. And it took me until Sunday
13 night to finish them. And all kind of
14 documents are missing. And I'm trying
15 to see if this witness have these
16 documents. I mean these
17 are -- well --

18 MS. NELSON: I don't understand. You say
19 documents are missing. They've either
20 been produced or objected to or don't
21 exist. I mean, you may be asking --

22 MR. JAFFREE: Well, I'm going to find out
23 from this witness whether or not they

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1 you're not --

2 MR. JAFFREE: Well, I've agreed to resume
3 this after lunch so you can have the
4 benefit of your responses.

5 MS. NELSON: That's fine.

6 MR. JAFFREE: Okay?

7 **Q. Let me go back to this request for production**
8 **of documents. Did you bring with you all**
9 **documents pertaining to Crystal Gray?**

10 MS. NELSON: We do. I have them here.

11 **Q. Emmanuel Hooker?**

12 MS. NELSON: We do.

13 **Q. Michael McCord? There's two Michael McCords,**
14 **one B. and one D.**

15 MS. NELSON: We brought all dealing with
16 Michael McCord that we had -- Michael
17 D. McCord.

18 MR. JAFFREE: Well, I also asked for
19 Michael B. McCord.

20 MS. NELSON: There were none.

21 **Q. Do you know what happened to the documents**
22 **dealing with Michael B. McCord?**

23 MS. NELSON: There were none.

18 (Pages 69 to 72)

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<p>1 MR. JAFFREE: What do mean, "there were 2 none?" 3 MS. NELSON: I'm telling you, there were 4 none. There are no documents. 5 MR. JAFFREE: Okay. 6 Q. What about Albert Christopher Walker? 7 MS. NELSON: I have objected, and I would 8 ask that we strike and seal his name. 9 He is youthful offender status, and 10 we're not going to produce or discuss 11 him. And I've asked that -- 12 MR. JAFFREE: Well, excuse me. But this 13 is one that we claim that somebody 14 caused arrest of I believe. 15 MS. NELSON: I don't care. He's youthful 16 offender. 17 MR. JAFFREE: And shouldn't have been. 18 Are you going to stipulate that there 19 was a wrongful arrest of this 20 individual? 21 MS. NELSON: No, I am not. 22 MR. JAFFREE: Then I would like to see his 23 file.</p>	<p>1 Thomas Blunt. 2 Q. Okay. And John Powe? 3 MR. JAFFREE: I think y'all submitted some 4 Powe file. 5 MS. NELSON: We have submitted a Powe 6 file. I think it was Ronald Powe. 7 Q. Okay. Now, number five. All documents 8 received by Judge Gordon and/or anyone acting 9 on -- on or for her behalf from each of the 10 Dothan city police officers who questioned, 11 interviewed staff concerning any matter that 12 Ms. Brackin was disciplined about or otherwise 13 Ms. Brackin was question by a Dothan police 14 officer while she was a Dothan city employee. 15 MS. NELSON: We have produced all of that 16 previously. 17 MR. JAFFREE: Is that from the production 18 that you gave me, that -- 19 MS. NELSON: Yes. 20 MR. JAFFREE: -- document? 21 Q. I asked for your Attachment 1, 2, and 3. 22 MS. NELSON: We have produced that. 23 MR. JAFFREE: You produced that</p>
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<p>1 MS. NELSON: Well, I'm sorry. I've 2 objected, and you'll have to take it 3 up with the judge. 4 Q. All right. What about Shaun McGhee? 5 MS. NELSON: Shaun McGhee is a public 6 defender. 7 MR. JAFFREE: And your point is what? 8 MS. NELSON: And we're not producing all 9 files on a public -- all files on a 10 public defender. No. 11 Q. All right. Otha Lee June? 12 MS. NELSON: There is no -- we could not 13 find an Otha Lee June. 14 Q. What about Mark Cromer? 15 MS. NELSON: Yes, we have Mark Cromer. 16 Q. And Christopher Candl? 17 MS. NELSON: We could not locate a 18 Christopher Candl, C-A-N-D-L. 19 MR. JAFFREE: Could you locate anyone with 20 a name similar to that? You don't 21 have to answer that. 22 Q. What about Thomas Blunt? 23 MS. NELSON: Could not locate any files on</p>	<p>1 previously? 2 MS. NELSON: Yes. 3 Q. Okay. Copies of the Dothan Personnel Rules 4 and Regulations that were in effect during the 5 employment of the plaintiffs. 6 MR. JAFFREE: Now, you question whether or 7 not the rules that I gave was correct. 8 MS. NELSON: Well, that was the Civil 9 Service Act. I did make a -- I do 10 have a copy. The personnel department 11 is the person who has custody and 12 control of these rules and 13 regulations. Judge Gordon doesn't. 14 But I will provide you a copy of 15 that. I believe your witnesses have 16 testified -- your plaintiffs have 17 testified that they have that -- had 18 those. 19 MR. JAFFREE: Well, I'm not sure they 20 testified that they had them still 21 with them. 22 MS. NELSON: Okay. 23 MR. JAFFREE: You have that?</p>

19 (Pages 73 to 76)

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1 MS. NELSON: Yes, sir, we do.
 2 MR. JAFFREE: Let me do this. Can you --
 3 let me go back, and I should have did
 4 this -- number four, to the extent you
 5 have documents to number four, can I
 6 bundle them and call -- mark them as
 7 Plaintiffs' Exhibit 3?
 8 MS. NELSON: You can.
 9 (Brief pause)
 10 MR. JAFFREE: You said you had the rules;
 11 that's number seven?
 12 MS. NELSON: You're marking those?
 13 MR. JAFFREE: Yeah.
 14 MS. NELSON: What number?
 15 MR. JAFFREE: Number 4. Number 3 was
 16 this -- these defendants to the extent
 17 that you produced them.
 18 **Q. What about number eight, Judge Gordon's**
 19 **January the 8th public relations memo sent to**
 20 **the staff?**
 21 MS. NELSON: That's been produced in
 22 previous documents.
 23 MR. JAFFREE: I'm not sure I've seen

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1 that. You mean that pile of
 2 documents? I'm sure I saw that. Do
 3 you have another copy of it?
 4 MS. NELSON: Not with me. I'm pretty sure
 5 it's attached to --
 6 MR. JAFFREE: I'm going to --
 7 MS. NELSON: I know it's attached to one
 8 of Ms. --
 9 MR. JAFFREE: I'm going to --
 10 MS. NELSON: -- Brackin's disciplinary
 11 actions.
 12 MR. JAFFREE: All right. Okay.
 13 **Q. Number nine, Judge Gordon's March the 17th**
 14 **letter concerning no contact with Ms. Turner.**
 15 MS. NELSON: That's also been produced.
 16 **Q. What about A-Advantage Bonding, Inc., April**
 17 **the 6th, 2004 letter?**
 18 MS. NELSON: We could not find any such
 19 letter.
 20 MR. JAFFREE: You couldn't find any such
 21 letter?
 22 MS. NELSON: Correct.
 23 MR. JAFFREE: I found some stuff that

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1 Nancy had given to me probably two
 2 years ago.
 3 MS. NELSON: Well, if you found stuff --
 4 let me say this: If you're going to
 5 use stuff that she gave to you that I
 6 didn't get to question her about, I'm
 7 going to keep her deposition open to
 8 reserve the right to question her.
 9 MR. JAFFREE: Well, you can question her
 10 about this, but this is -- you want to
 11 look at this? And this is the thing
 12 that you said you couldn't find.
 13 MS. NELSON: Well, it looks like we
 14 probably couldn't find it because she
 15 took it with her.
 16 MR. JAFFREE: No, she did not. That's her
 17 copy. Several people had a copy of
 18 that if you notice.
 19 MS. NELSON: Well, it's interesting that I
 20 asked her for any documents that she
 21 had to support her claim and --
 22 MR. JAFFREE: Well, she -- hold up.
 23 MS. NELSON: I've made it clear --

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1 MR. JAFFREE: I forgot that I had that.
 2 MS. NELSON: Well, I reserve the right
 3 to --
 4 MR. JAFFREE: Because I've got -- I mean
 5 there's a whole "googobs" of stuff in
 6 this case. And when I was going
 7 through this stuff last night --
 8 because I'd asked Nancy if she had
 9 that document because I thought I saw
 10 it once. And she didn't have it. And
 11 she remembered the date. And I had
 12 it.
 13 MS. NELSON: Well, you have it, and looks
 14 like it's an original with original
 15 signatures. All I can tell you --
 16 MR. JAFFREE: Well, it's original to
 17 Nancy.
 18 MS. NELSON: But we made an attempt -- an
 19 effort to find this and did not have
 20 it. And she should've produced this
 21 yesterday and --
 22 MR. JAFFREE: There was no intent to --
 23 because we was clear on existence of

20 (Pages 77 to 80)

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<p>1 that document, and several people had</p> <p>2 copies of it.</p> <p>3 MS. NELSON: Well, you don't know that.</p> <p>4 It has that several people are listed</p> <p>5 on here, but you have no evidence</p> <p>6 anybody else had a copy of it.</p> <p>7 MR. JAFFREE: You want to let the judge</p> <p>8 see it to see if she'd recognize that</p> <p>9 document?</p> <p>10 MS. NELSON: Sure. I mean, that's your</p> <p>11 right to ask her about it. Are you</p> <p>12 marking this or --</p> <p>13 MR. JAFFREE: Well, I will since y'all</p> <p>14 couldn't find your copy. And you</p> <p>15 claimed you didn't --</p> <p>16 MS. NELSON: I don't have a copy.</p> <p>17 MR. JAFFREE: Well, okay. Fine.</p> <p>18 (Brief pause)</p> <p>19 MR. JAFFREE: If we could have somebody</p> <p>20 make a copy of that, including Nancy's</p> <p>21 note, I'd like to move on to these</p> <p>22 other documents so that we could move</p> <p>23 along. And you could -- the judge</p>	<p>1 Mr. Jaffree. You don't know that.</p> <p>2 A. I'm trying to figure out --</p> <p>3 MR. JAFFREE: What now?</p> <p>4 MS. NELSON: I didn't have a chance to</p> <p>5 question her about this. You're</p> <p>6 trying to testify that this is her</p> <p>7 copy.</p> <p>8 MR. JAFFREE: Well, I see several --</p> <p>9 copies sent to several people on the</p> <p>10 document itself.</p> <p>11 MS. NELSON: I know, but that doesn't mean</p> <p>12 it was actually done. You're just</p> <p>13 assuming that because it has -- it's</p> <p>14 addressed to several people. You</p> <p>15 don't have any evidence that it went</p> <p>16 to all these people.</p> <p>17 MR. JAFFREE: Well, I don't have any</p> <p>18 evidence that it didn't.</p> <p>19 MS. NELSON: That's true. And I haven't</p> <p>20 had a chance to question Ms. Martin on</p> <p>21 this, and so I do want to reopen her</p> <p>22 deposition. Now, we can get it copied</p> <p>23 and just want to point for Record that</p>
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<p>1 could read that at her leisure.</p> <p>2 MS. NELSON: Okay. I mean -- do you -- do</p> <p>3 you --</p> <p>4 THE WITNESS: I don't know what to say.</p> <p>5 MS. NELSON: Well, do you --</p> <p>6 MR. JAFFREE: Well, I didn't ask you to</p> <p>7 say anything.</p> <p>8 MS. NELSON: -- want to make a copy and</p> <p>9 move on?</p> <p>10 MR. JAFFREE: Yeah.</p> <p>11 MS. NELSON: Okay.</p> <p>12 MR. JAFFREE: Y'all didn't have a copy of</p> <p>13 that. But -- okay.</p> <p>14 Q. What about number eleven?</p> <p>15 MR. JAFFREE: And I'm going to mark it --</p> <p>16 MS. NELSON: You want us to make a copy?</p> <p>17 MR. JAFFREE: If somebody could make a</p> <p>18 copy and I'm going to mark -- I'll</p> <p>19 stick that to the original to mark --</p> <p>20 A. But that's the original.</p> <p>21 Q. Well, that's Nancy's original. There were</p> <p>22 several originals.</p> <p>23 MS. NELSON: That's your testimony,</p>	<p>1 that is the original that was stamped</p> <p>2 in by Nancy Martin.</p> <p>3 MR. JAFFREE: Well, I don't know if it was</p> <p>4 stamped in by Nancy Martin or stamped</p> <p>5 in by somebody.</p> <p>6 THE WITNESS: She signed it.</p> <p>7 MS. NELSON: She signed it, it appears.</p> <p>8 It had an "NM."</p> <p>9 MR. JAFFREE: Yeah.</p> <p>10 THE WITNESS: Can we get her back today to</p> <p>11 --</p> <p>12 MR. JAFFREE: I don't know if we could get</p> <p>13 her back today.</p> <p>14 Q. But let me go to number 11. All written</p> <p>15 reports to the personnel director concerning</p> <p>16 any deficiencies in Nancy's job performance</p> <p>17 during her working test period.</p> <p>18 MS. NELSON: And that's been provided.</p> <p>19 MR. JAFFREE: What documents are those?</p> <p>20 MS. NELSON: I'm sorry?</p> <p>21 MR. JAFFREE: What documents was those you</p> <p>22 said had been provided? I'm talking</p> <p>23 about correspondence to the personnel</p>

21 (Pages 81 to 84)

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1 director. I mean, I got three, I
 2 think, documents to the personnel
 3 director. Is that what you are
 4 talking about? The same things that
 5 were part of her attachments,
 6 Attachment 1, 2, and 3. The same
 7 thing was sort of reproduced and sent
 8 to the personnel director.
 9 MS. NELSON: That we have produced her
 10 file, that we produced it in the EEOC
 11 documents we produced yesterday.
 12 There are multiple documents to the
 13 personnel director about Nancy's
 14 deficiencies.
 15 MR. JAFFREE: All right.
 16 **Q. What about number twelve, the civil service**
 17 **rating list for these three individuals?**
 18 MS. NELSON: Judge does not have that.
 19 That's maintained by the personnel
 20 office.
 21 **Q. Okay. All right. What about -- by the way,**
 22 **Judge, did you make any attempts to get this**
 23 **from the personnel office?**

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1 MS. NELSON: She can't produce what she
 2 does not have custody and control
 3 over.
 4 **Q. Is that your testimony, that you couldn't get**
 5 **access to this?**
 6 MS. NELSON: I'm telling you. She doesn't
 7 have custody and control over ratings,
 8 do you, Judge --
 9 THE WITNESS: No.
 10 MS. NELSON: -- over the registers?
 11 THE WITNESS: I never even see them. All
 12 that's Personnel.
 13 **Q. Number thirteen, Judge Gordon's November and**
 14 **December of 2003 memos to the staff regarding**
 15 **changing cash bonds. Did you produce that?**
 16 A. I -- I don't even know the memos.
 17 MS. NELSON: I don't know if we were -- if
 18 there is a memo, we couldn't find any
 19 such memo.
 20 MR. JAFFREE: Couldn't find such memos for
 21 number thirteen.
 22 **Q. All memos, notes, letters written by Judge**
 23 **Gordon concerning Martin's job performance.**

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1 **Do I have everything you have there?**
 2 MS. NELSON: Yes.
 3 MR. JAFFREE: There are no other memos
 4 other than what y'all have provided to
 5 me?
 6 MS. NELSON: Correct.
 7 **Q. Okay. All memos, notes, letters written by**
 8 **Judge Gordon concerning Brackin's job**
 9 **performance. Do I have all of that?**
 10 MS. NELSON: That would be in the
 11 personnel file. We've produced all of
 12 that.
 13 **Q. All memos, notes, letters received by Judge**
 14 **Gordon concerning Plaintiff Martin's job**
 15 **performance, anything that you received from**
 16 **other third parties.**
 17 MS. NELSON: That would be in her file.
 18 We've produced all that we have -- all
 19 we have on Nancy Martin.
 20 **Q. Well, I didn't see any letters that you had**
 21 **received from anybody else. But, okay. I got**
 22 **all of my stuff with me.**
 23 All memos, letters, notes received,

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1 written by -- received -- but I'm not going to
 2 hold you to number eighteen because there was
 3 a repeat of a word that made that sentence not
 4 legible.
 5 All documents Judge Gordon submitted when
 6 she applied for the position of municipal
 7 judge for the City of Dothan. That's the very
 8 three notes we were discussing earlier. What
 9 did you submit when you applied for the
 10 position?
 11 MS. NELSON: And she's testified to that,
 12 and we've produced her personnel
 13 file. So that's all the documents we
 14 have, is what we've produced.
 15 MR. JAFFREE: And number 20 is the one you
 16 object to, the documents submitted by
 17 other applicants?
 18 MS. NELSON: Correct. And, certainly,
 19 Judge Gordon doesn't have that.
 20 MR. JAFFREE: Well, you're doing a lot of
 21 testifying for Judge Gordon.
 22 MS. NELSON: Well, why would she have
 23 those?

22 (Pages 85 to 88)

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1 THE WITNESS: Well, I wouldn't have the
2 documents of other applicants.
3 MS. NELSON: Well, we're hashing out a
4 document request that I have filed
5 objections to and I'm just trying
6 to --
7 THE WITNESS: I probably sent them to
8 Personnel if they applied.
9 MS. NELSON: You can ask her does she have
10 copies of any applications submitted
11 by anybody else that applied for her
12 job after 1999. I mean, you can ask
13 her that.
14 A. They wouldn't have sent the applications to me
15 because I wouldn't have been even hired. I
16 wasn't even here. It would have gone to
17 Personnel. I'm assuming. I don't know where
18 it went.
19 **Q. Okay. All right. Now, let me get back to**
20 **where I left off at with questions.**
21 **Were you informed by anyone that these**
22 **interviews -- all right. Were you informed by**
23 **anyone at the interview that you was taking**

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1 **was just pro forma and that you already had**
2 **the position?**
3 A. No, not to my knowledge.
4 **Q. Now, what is the scope of your administrative**
5 **duties when you're serving as the**
6 **administrator of the magistrates' office?**
7 MS. NELSON: Object to the form.
8 **Q. Do you understand the question? Did you**
9 **understand the question?**
10 MS. NELSON: Are you asking what her
11 duties are?
12 **Q. Yeah. The scope of your administrative -- I**
13 **assume you have a judicial hat and a**
14 **administrative hat. Your judicial hat is when**
15 **you're sitting on the bench as the judge and**
16 **you have an administrative hat when you were**
17 **administrating over the magistrates'**
18 **department, what is the scope --**
19 MS. NELSON: Object to the form.
20 **Q. What is the scope of your administrative**
21 **duties?**
22 MS. NELSON: You can ask her if she wore
23 two hats, but to assume -- and you're

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1 assuming she wears two hats.
2 **Q. Do you wear two hats?**
3 A. When we have a court administrator, I -- I
4 mean, we have a court administrator position
5 whose job is administrate -- I'm making that
6 word up -- the magistrates' office. But I
7 directly supervise the court administrator.
8 The court administrator supervises the
9 magistrates when we have that position
10 filled. So on a day-to-day basis, I
11 do not -- I cannot literally physically
12 supervise the magistrates' office.
13 **Q. So it's your testimony when you have a person**
14 **functioning as the administrator of the**
15 **magistrates, then your only role is to**
16 **supervise the administrator?**
17 A. Not my only role, but my primary role as far
18 as -- you know, I don't -- I'm not over there
19 day to day. The court administrator would be
20 over there. So that's not my only role. I --
21 I sign -- that's not my only role.
22 **Q. Well, what other role do you have when you**
23 **have a court administrator?**

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1 A. Well, I'm the department head, so there are
2 certain things that only I can approve,
3 certain purchases over a certain amount,
4 travel requests. There are certain things
5 that only I can sign as a department head.
6 But the court administrator coordinates all
7 that. They just submit the paperwork to me
8 for my ultimate signature as department head,
9 but it's under their recommendation.
10 **Q. Well, when you have a person serving as**
11 **administrator for the magistrate office, do**
12 **you get involved in the day-to-day activities**
13 **of the magistrates?**
14 A. No.
15 **Q. Do you get involved in the job assignments?**
16 A. No.
17 **Q. Do you get involved in time and attendance or**
18 **approving leave?**
19 MS. NELSON: I'm sorry. Time and
20 attendance and what?
21 MR. JAFFREE: Approving leave.
22 A. I sign the payroll that they submit. But as
23 far as their time cards, I never see their

23 (Pages 89 to 92)

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1 time cards. I never see what they put on
 2 their time cards. I don't know if they're
 3 there on a day-to-day basis or not because I'm
 4 in another building. But, now, I do sign the
 5 ultimate payroll that goes over to -- or comes
 6 over here for them to get paid, but it's just
 7 a document. I doesn't have any specifics on
 8 it.

9 **Q. What is the scope of your judicial duties for**
 10 **serving as municipal judge?**

11 A. I preside over the City of Dothan Municipal
 12 Court which -- that's what I do.

13 **Q. And that consists of what? What do you do,**
 14 **other than preside?**

15 A. That's what I do. I preside over the City of
 16 Dothan's Municipal Court.

17 **Q. You couldn't break down what your job duties**
 18 **are, other than just preside over the court?**

19 A. Well, I laugh --

20 MS. NELSON: Tell him what you do. I
 21 mean --

22 THE WITNESS: He's been there several
 23 times. He knows what I do.

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1 A. I mean, you do. What I --

2 **Q. I haven't been there several times.**

3 A. I mean, I -- I preside -- you've been there
 4 before. I mean, I preside over the City of
 5 Dothan Municipal Court. I hold court. We
 6 have trials. We have arraignments. We have
 7 prisoners. We do CRO revocations. We do
 8 everything that a court -- everything the name
 9 entitles. We have court. We have full court
 10 three and a half days a week. We have
 11 revocations, and we do bondsmen forfeitures
 12 one day a month. We do CRO revocations. We
 13 do prisoners. We do determination hearings.
 14 We do probation revocation hearings. Just the
 15 extent of what a municipal court does, I do.

16 **Q. Is the municipal court an adjunct of the city**
 17 **police department?**

18 A. No.

19 **Q. Is the city police department an adjunct of**
 20 **municipal court?**

21 A. No.

22 **Q. Are they two separate independent bodies?**

23 A. Yes. By law they have to be separate.

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1 **Q. Is part of the reason they're separate is**
 2 **because you're required to be an independent**
 3 **arbiter?**

4 MR. JAFFREE: Object to the form.

5 **Q. Do you understand my question?**

6 A. I do but I don't -- no. I don't know.

7 **Q. I'm sorry?**

8 A. I don't know.

9 **Q. You don't know what?**

10 A. I don't know why the -- why they're -- I mean,
 11 I guess on some level I know why. But we're
 12 just separate entity just like we're a
 13 separate entity from the public utilities.
 14 We're a separate entity from recreation.
 15 We're just two separate departments. We don't
 16 have any of the same personnel in common.

17 **Q. Okay. In your capacity as municipal judge, do**
 18 **you have to be impartial and cannot show**
 19 **deference to the police department?**

20 A. Yes.

21 **Q. Do the city police department have any role in**
 22 **deciding discipline for the Judicial**
 23 **Department's employees?**

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1 A. No, not ultimately.

2 **Q. Do they have any role?**

3 A. No.

4 **Q. These duties that you have as sort of the**
 5 **super administrator of the magistrate office,**
 6 **have these duties changed during the -- or**
 7 **since the time Ms. Martin and Ms. Brackin were**
 8 **employed? Or are they pretty much the same**
 9 **now as they was then?**

10 A. I don't understand the question.

11 **Q. When you function as the -- as I call it, your**
 12 **administrator hat being the super**
 13 **administrator over the magistrates, the roles**
 14 **that you just articulated that you have, did**
 15 **you have those same roles when Ms. Martin and**
 16 **Ms. Brackin were employed?**

17 A. Yes.

18 **Q. What percentage of your time do you think you**
 19 **were spending on the administrative duties**
 20 **during the tenure of Ms. Brackin and**
 21 **Ms. Martin?**

22 MR. JAFFREE: Object to the form. They
 23 were there at different times, Martin

24 (Pages 93 to 96)

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<p>1 and Brackin were.</p> <p>2 Q. Well, let's first talk about Ms. Martin. What</p> <p>3 percentage of your time was spent on</p> <p>4 administrative duties during the tenure of</p> <p>5 Ms. Martin?</p> <p>6 A. I -- I have no point of reference.</p> <p>7 Q. Is the bulk of your time during her tenure</p> <p>8 spent wearing your judicial hat?</p> <p>9 A. Yes.</p> <p>10 Q. 90 percent, would you say?</p> <p>11 A. 95.</p> <p>12 Q. 95 percent.</p> <p>13 And what about during the tenure of</p> <p>14 Ms. Brackin when you had an administrator</p> <p>15 during that period of time -- when you had an</p> <p>16 administrator during the time she was</p> <p>17 working? Same 95 percent, perhaps?</p> <p>18 MS. NELSON: Object to the form.</p> <p>19 A. I spend most of my time in court. So if 95</p> <p>20 percent of my time is spent in court, yes.</p> <p>21 Q. All right. When you don't have an</p> <p>22 administrator function as the two-layer head</p> <p>23 of the magistrates, what percentage of your</p>	<p>1 changed as far as my duties whether or not</p> <p>2 they had an administrator. I still would</p> <p>3 ultimately, you know, have to sign the</p> <p>4 payroll, have to work out, you know, anything</p> <p>5 they had going on.</p> <p>6 Q. But didn't do any --</p> <p>7 A. I wasn't in their office, no.</p> <p>8 Q. In their office day to day?</p> <p>9 A. No.</p> <p>10 Q. So they sort of supervised themselves when</p> <p>11 they don't have an administrator?</p> <p>12 A. I guess it depends on what you mean by</p> <p>13 supervise. They all had assigned duties.</p> <p>14 Q. Okay. What is the organizational structure of</p> <p>15 the Dothan Municipal Court?</p> <p>16 A. I guess it would be presiding judge, court</p> <p>17 administrator, magistrates, clerks.</p> <p>18 Q. Okay. Do you know what the statute or</p> <p>19 ordinance is that authorized your position as</p> <p>20 a municipal judge?</p> <p>21 MS. NELSON: I'm sorry. I don't</p> <p>22 understand what you said.</p> <p>23 Q. Do you know the statute or ordinance that</p>
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<p>1 time do you spend with the administrative</p> <p>2 function of your job?</p> <p>3 MS. NELSON: Object to the form.</p> <p>4 Q. Do you understand the question?</p> <p>5 A. Well, I'd still say about five. Whether I</p> <p>6 have an administrator or not, approximately 90</p> <p>7 to 95 percent of my time is in court, court</p> <p>8 hours, court scheduled hours. So I'd still</p> <p>9 say maybe 5 or 10 percent. I mean, I --</p> <p>10 Q. So is it safe to assume that when you don't</p> <p>11 have an administrator, the magistrates are</p> <p>12 sort of running themselves?</p> <p>13 MS. NELSON: Object to the form.</p> <p>14 Q. You understand the question?</p> <p>15 A. I wouldn't agree with that, no.</p> <p>16 Q. Well, who is supervising them when they don't</p> <p>17 have an administrator?</p> <p>18 A. I am.</p> <p>19 Q. You supervising them 5 percent of the time?</p> <p>20 A. I thought you meant over there in the office.</p> <p>21 In their office. I supervise them -- I mean,</p> <p>22 100 percent of the time they can come -- you</p> <p>23 know, I did everything I still did. Nothing</p>	<p>1 authorized your position as municipal judge?</p> <p>2 A. I don't know the specific statute number.</p> <p>3 Q. Well, could you tell me --</p> <p>4 A. No. I don't have an answer to that question.</p> <p>5 Q. When you have an administrator for the</p> <p>6 magistrate office, what degree of</p> <p>7 administrative discretion do you permit this</p> <p>8 person to have?</p> <p>9 MS. NELSON: In general or as any</p> <p>10 particular time?</p> <p>11 Q. Well, when you have an administrator, do you</p> <p>12 sort of allows them discretion to make</p> <p>13 decisions as to what to do?</p> <p>14 A. Yes.</p> <p>15 Q. Is that true independent of who happens to be</p> <p>16 functioning as the administrator at any</p> <p>17 particular time?</p> <p>18 A. Yes.</p> <p>19 Q. So you generally don't second guess what the</p> <p>20 administrator is trying to do?</p> <p>21 A. No.</p> <p>22 Q. In your view, any administrator that you hire,</p> <p>23 should they be an adjunct of you to do your</p>

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1 bidding?

2 MS. NELSON: Object to the form. I have

3 no idea what you're talking about.

4 **Q. Do you know what I'm talking about?**

5 A. No.

6 **Q. Well, when you hire an administrator, do you**

7 **sort of see them to be your shadow person to**

8 **do whatever it is you want them to do, or do**

9 **you let them function independently?**

10 MS. NELSON: Object to the form.

11 A. If I hire them to be the administrator, I

12 expect them to act independently. I

13 mean -- yeah. I don't expect them to do what

14 I want them to do.

15 **Q. If you and one of your hired administrators**

16 **disagrees on a substantive matter, who**

17 **prevails?**

18 A. It depends on what it is.

19 **Q. Can you give some examples of when you would**

20 **permit them to prevail and examples of when**

21 **you would make the decision?**

22 A. I can't think of any.

23 **Q. Just if you can, but you can't come up with an**

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1 example.

2 A. I don't know what that allow me to prevail

3 as -- somebody -- I don't know. I don't

4 understand the question.

5 **Q. Well, the decision with respect to discipline,**

6 **a subordinate employee, and you and the**

7 **administrator differ on what discipline should**

8 **be netted out, who would generally prevail in**

9 **those disagreements.**

10 A. I -- generally, absent any -- I would let them

11 do it, because they're over there with them,

12 they know the facts. They know, you know,

13 what's going on. And I can't imagine that I

14 would, you know, not defer if there was just a

15 -- if there wasn't a problem.

16 **Q. Okay.**

17 A. I normally wouldn't even know unless they

18 brought it to me.

19 **Q. In your position as municipal judge, who do**

20 **you answer to?**

21 A. Administrative Office of Courts.

22 **Q. And who is that?**

23 A. Governing body of judicial systems in the

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1 state of Alabama. I guess I would directly

2 answer to the City of Dothan Commission. But

3 they don't -- I mean, as far as who does our

4 ultimate -- I guess that would be

5 Administrative Office of Courts. It's who we

6 report to. We report all our dispositions,

7 our case numbers, everything goes to them.

8 **Q. Is that in Montgomery?**

9 A. Yes.

10 **Q. Well, who supervises you locally?**

11 A. Supervises me? I guess that would be the

12 Commission.

13 **Q. Who is responsible for your evaluation?**

14 A. The city manager does our annual review, I

15 guess, as a department head.

16 **Q. So he does your evaluation?**

17 A. Yes. He does my annual review.

18 **Q. Is he in a position to know what you do?**

19 A. Is he in a position to know what I do?

20 MS. NELSON: You're talking about the city

21 manager?

22 MR. JAFFREE: Yeah.

23 MS. NELSON: If you know.

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1 **Q. Well, you're pausing without an answer. Do**

2 **you know the answer to that, whether he's in a**

3 **position or not?**

4 MS. NELSON: Well, obviously, she

5 confused. Do you understand his

6 question?

7 THE WITNESS: I don't.

8 A. I mean, is he in a position to know what I do

9 physically, like every day what I do or what I

10 do --

11 **Q. On how well you do your job. Is he in any**

12 **position to know?**

13 A. I would think so.

14 **Q. How often does he come over to your court to**

15 **observe you perform?**

16 A. Pretty often. I mean, he'll pop in and pop

17 out. But I don't think it's -- yeah.

18 He'll -- pretty often. I don't have a number.

19 **Q. And what's his name?**

20 A. Mike West. But now -- yeah, Mike West.

21 **Q. Well, what social organizations do you belong**

22 **to?**

23 A. Oh, Lord. Delta Sigma Theta Sorority.

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<p>1 Q. Is that a female organization?</p> <p>2 A. It is.</p> <p>3 Q. Males are excluded?</p> <p>4 A. Yeah.</p> <p>5 Q. Black or white organization?</p> <p>6 A. I don't know that it's been characterized. I</p> <p>7 think it's multiethnic.</p> <p>8 Q. You are of the one -- the group that you</p> <p>9 belong to is mostly black, mostly white, or</p> <p>10 mixed?</p> <p>11 A. Mostly black.</p> <p>12 Q. Would you say 95 percent black?</p> <p>13 A. Yes.</p> <p>14 Q. Maybe 99 percent black?</p> <p>15 A. The one -- the Dothan chapter?</p> <p>16 Q. Yeah?</p> <p>17 A. 100 percent black.</p> <p>18 Q. 100 percent black. What other organizations</p> <p>19 do you belong to?</p> <p>20 A. Social organizations. That would exclude</p> <p>21 professional organizations. That's about it</p> <p>22 socially.</p> <p>23 Q. How do you feel about belonging to an</p>	<p>1 Q. Isn't true they didn't have any Caucasian in</p> <p>2 their membership?</p> <p>3 A. I don't know that to be true.</p> <p>4 Q. Well, doesn't BASA stand for Black American</p> <p>5 Law Student Association?</p> <p>6 A. It does. Well, we were MLSA, Minority Law</p> <p>7 Students Association.</p> <p>8 Q. They changed from BASA to Minority?</p> <p>9 A. At Tulane.</p> <p>10 Q. Okay. Do you view yourself as an American</p> <p>11 first or an African-American?</p> <p>12 MS. NELSON: Object to the form.</p> <p>13 A. I never thought about it.</p> <p>14 Q. Well, if you think about it now, how do you</p> <p>15 view yourself?</p> <p>16 A. American.</p> <p>17 Q. What about African-American; is that</p> <p>18 secondary?</p> <p>19 A. I just -- I never I think about it.</p> <p>20 Q. Okay. Would you say that you have a race</p> <p>21 consciousness?</p> <p>22 MS. NELSON: Object to the form.</p> <p>23 A. A race -- a consciousness of what my race is?</p>
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<p>1 exclusively black organization?</p> <p>2 MS. NELSON: Object to the form.</p> <p>3 A. How do I feel? I've never thought about it.</p> <p>4 I go to an exclusively black church. It's not</p> <p>5 something I chose. It's just that's the</p> <p>6 organization's makeup.</p> <p>7 Q. What about BASA; were you a member of BASA at</p> <p>8 any time?</p> <p>9 A. I was.</p> <p>10 Q. Is that an exclusively black organization?</p> <p>11 A. No.</p> <p>12 Q. BASA permits non-blacks?</p> <p>13 A. At Tulane it did.</p> <p>14 Q. How many non-blacks did BASA have at Tulane</p> <p>15 when you was there?</p> <p>16 A. I don't have a number but there were ethnic --</p> <p>17 other ethnicities included.</p> <p>18 Q. Well, how many Caucasians?</p> <p>19 A. But they were called the Minority Law Students</p> <p>20 Association.</p> <p>21 Q. How many Caucasians did BASA have when you was</p> <p>22 at Tulane?</p> <p>23 A. I don't know.</p>	<p>1 Q. Yeah. Race consciousness. Are you familiar</p> <p>2 with that term?</p> <p>3 A. I'd ask you to be more specific. I'm very</p> <p>4 conscious of what my race is, yes, that I am</p> <p>5 black. Yes, I'm conscious of that. Yes, I'm</p> <p>6 conscious of the fact that I'm black.</p> <p>7 Q. Were you aware when you first became the</p> <p>8 magistrate for this city that there had not</p> <p>9 been any prior black judges in the city?</p> <p>10 A. No.</p> <p>11 Q. Were you aware subsequent to your becoming a</p> <p>12 magistrate that there's never been any black</p> <p>13 judges in the city?</p> <p>14 A. I've never been a magistrate.</p> <p>15 Q. I'm sorry. Let me rephrase my question. Were</p> <p>16 you aware when you became the municipal judge,</p> <p>17 there had never been a black judge in this</p> <p>18 city, is what I intended to say?</p> <p>19 A. Black judge in this whole city, was I aware of</p> <p>20 that? No.</p> <p>21 Q. Were you subsequently made aware of that?</p> <p>22 A. I mean, I've never asked. No.</p> <p>23 Q. Okay. Were you aware when you became</p>

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<p>1 municipal judge that there wasn't any</p> <p>2 African-American magistrates employed in the</p> <p>3 magistrate office?</p> <p>4 A. Once I started to --</p> <p>5 Q. Yeah. Once you started working, were you</p> <p>6 aware --</p> <p>7 A. I saw that there were none, yes.</p> <p>8 Q. You could visibly see that?</p> <p>9 A. Yes.</p> <p>10 Q. Were you aware that there had never been any?</p> <p>11 A. No.</p> <p>12 Q. Did you subsequently become aware that there</p> <p>13 had never been any?</p> <p>14 A. No. I don't know that there have never been</p> <p>15 any before I came in life. You know, I don't</p> <p>16 know.</p> <p>17 Q. Do you remember testifying anywhere that there</p> <p>18 had never been any African-American in the</p> <p>19 City of Dothan; do you remember testifying to</p> <p>20 that?</p> <p>21 A. No, not specifically. I don't know through my</p> <p>22 tenure.</p> <p>23 Q. Yeah. Were you determined to change that</p>	<p>1 MS. NELSON: As long as your answer is</p> <p>2 understood.</p> <p>3 Q. You want to change an answer?</p> <p>4 A. (Witness shakes head in the negative.)</p> <p>5 Q. You testified earlier that you never had any</p> <p>6 Title VII litigation -- I'm sorry -- Title VII</p> <p>7 classes in school, right?</p> <p>8 A. No, I did not testify to that.</p> <p>9 Q. How would you define free speech?</p> <p>10 MS. NELSON: Object to the form. Object</p> <p>11 to this line of inquiry.</p> <p>12 MR. JAFFREE: How would --</p> <p>13 MS. NELSON: It calls for a legal</p> <p>14 conclusion.</p> <p>15 Q. How would you define -- as an attorney, how</p> <p>16 would you define free speech?</p> <p>17 MS. NELSON: Object to the form.</p> <p>18 A. I've never thought about it. I mean, freedom</p> <p>19 of speech. I've never thought about it. I</p> <p>20 don't have a definition.</p> <p>21 Q. Well, do you think government employees should</p> <p>22 be entitled to some free speech rights?</p> <p>23 MS. NELSON: Object to the form, what she</p>
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<p>1 result?</p> <p>2 A. No.</p> <p>3 Q. Did you change that result?</p> <p>4 A. The fact that there were never any</p> <p>5 magistrates -- black magistrates?</p> <p>6 Q. The fact that there wasn't any.</p> <p>7 A. Did I change it?</p> <p>8 MS. NELSON: You mean, did she hire any?</p> <p>9 A. Right. Did I hire any black people to be a</p> <p>10 magistrate?</p> <p>11 Q. However you had to change it, did you change</p> <p>12 the fact that wasn't any African-American</p> <p>13 magistrates in the City of Dothan?</p> <p>14 A. I guess I did.</p> <p>15 Q. You're not sure?</p> <p>16 A. I mean, I hired people that -- you know, off</p> <p>17 of a register that were black. But it wasn't</p> <p>18 an intentional I'm going to change the fact.</p> <p>19 It's just people who are on a register.</p> <p>20 Did I change that? Yes.</p> <p>21 MS. NELSON: You're okay to say --</p> <p>22 THE WITNESS: I was just trying to say yes</p> <p>23 or no.</p>	<p>1 thinks.</p> <p>2 A. And not just government employees. I know</p> <p>3 citizens have a right of free speech whether</p> <p>4 they're government employees or not. As a</p> <p>5 citizen of the United States, you have a right</p> <p>6 of speech.</p> <p>7 Q. You think do? You think citizens have a right</p> <p>8 to free speech?</p> <p>9 MS. NELSON: You asked her what she</p> <p>10 thought; that's what she said.</p> <p>11 Q. I'm was just saying, do citizens generally</p> <p>12 have a right to free speech?</p> <p>13 A. Yes.</p> <p>14 Q. And that's true in the private sector as well?</p> <p>15 MS. NELSON: Private sector of what?</p> <p>16 A. Citizens not employees.</p> <p>17 Q. Well, what about non-government employees; do</p> <p>18 you think they have a right to free speech?</p> <p>19 MS. NELSON: Object to the form.</p> <p>20 A. And I've never thought about it.</p> <p>21 Q. Well, do you think that a government</p> <p>22 employee's free speech rights, to the extent</p> <p>23 they exist, should be broadly or narrowly</p>

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<p>1 construed?</p> <p>2 MS. NELSON: Object to the form, object to</p> <p>3 what she thinks, and object to your</p> <p>4 asking for a legal opinion.</p> <p>5 MR. JAFFREE: I'm asking for a legal</p> <p>6 opinion from an attorney.</p> <p>7 MS. NELSON: Well, an attorney who does</p> <p>8 not specialize or has testified that</p> <p>9 she is not a constitutional law judge</p> <p>10 or a constitutional law attorney. So</p> <p>11 I object to this line of inquiry.</p> <p>12 You're seeking a legal conclusion from</p> <p>13 the witness.</p> <p>14 MR. JAFFREE: I'm not sure you have to be</p> <p>15 that sophisticated to know the answers</p> <p>16 to those questions. I'm just not</p> <p>17 convinced that you have to be that</p> <p>18 sophisticated or like grounded in</p> <p>19 constitutional jurisprudence to answer</p> <p>20 to those questions.</p> <p>21 MS. NELSON: That's your opinion.</p> <p>22 MR. JAFFREE: Well, that's your opinion.</p> <p>23 MS. NELSON: Can you cite the latest five</p>	<p>1 construed. So I would like to know the nature</p> <p>2 of the debate on both sides before I make a</p> <p>3 decision as to which side I would choose.</p> <p>4 Q. Let me ask this: Once a person become a</p> <p>5 government employee, do you think they lose</p> <p>6 their constitutional rights?</p> <p>7 MS. NELSON: Object to the form as to what</p> <p>8 she thinks.</p> <p>9 A. The constitutional rights as a citizen of the</p> <p>10 United States?</p> <p>11 Q. Yeah.</p> <p>12 A. No.</p> <p>13 Q. Once they become an employee.</p> <p>14 A. I don't think they lose their constitutional</p> <p>15 rights.</p> <p>16 Q. Should their rights be limited because they</p> <p>17 become a government employee?</p> <p>18 MS. NELSON: Object to the form.</p> <p>19 A. Their constitutional rights as citizens of the</p> <p>20 United States?</p> <p>21 Q. Yeah. Their constitutional rights as citizens</p> <p>22 of the United States?</p> <p>23 A. No. I don't think just because they're</p>
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<p>1 Supreme Court cases issued by the</p> <p>2 Roberts court on free speech?</p> <p>3 MR. JAFFREE: I don't know them or profess</p> <p>4 to be able to. But I'm not your</p> <p>5 witness.</p> <p>6 MS. NELSON: You brought this case</p> <p>7 alleging on constitutional rights, and</p> <p>8 you don't know?</p> <p>9 MR. JAFFREE: I'm not your witness.</p> <p>10 Q. Do you think that free speech for government</p> <p>11 employees should be narrowly or broadly</p> <p>12 construed?</p> <p>13 MS. NELSON: Object to the form and object</p> <p>14 to what she thinks.</p> <p>15 A. And I've never thought about it.</p> <p>16 Q. Well, if you take a moment to think about it,</p> <p>17 what do you think?</p> <p>18 MS. NELSON: Object to what she thinks.</p> <p>19 A. I -- I -- it takes more than a moment for me</p> <p>20 to think about it because I'm sure that there</p> <p>21 are schools of thought on both sides, those</p> <p>22 who think they should be narrowly construed</p> <p>23 and those that think they should be broadly</p>	<p>1 employed that they should lose their rights as</p> <p>2 citizens of the United States.</p> <p>3 Q. Do you think free speech liberties are</p> <p>4 fundamental in our society?</p> <p>5 MS. NELSON: Object to the form. It calls</p> <p>6 for legal conclusion.</p> <p>7 Q. Do you think that free speech is a fundamental</p> <p>8 right?</p> <p>9 MS. NELSON: Object to the form. Same</p> <p>10 objection.</p> <p>11 Q. Do you understand what I mean?</p> <p>12 A. A fundamental right?</p> <p>13 Q. Yeah.</p> <p>14 A. Is it a -- or the most fundamental right?</p> <p>15 Q. Well, one of the group of fundamental rights.</p> <p>16 A. Fundamental rights.</p> <p>17 Q. Do you think so?</p> <p>18 MS. NELSON: Object to the form.</p> <p>19 A. Yeah. And I've had to think. I would say</p> <p>20 yes, I would think it would be.</p> <p>21 Q. Well, what about the freedom of association;</p> <p>22 do you think that should be a fundamental</p> <p>23 right as well?</p>

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1 MS. NELSON: Object to the form.
 2 A. Fundamental meaning incontrovertible, that you
 3 have this no matter what?
 4 **Q. Meaning those groups of rights that --**
 5 A. Are fundamental.
 6 **Q. -- those groups of rights that a civilized**
 7 **society should have and should observe, are**
 8 **those rights without which a civilized society**
 9 **could not long exist?**
 10 MS. NELSON: Object to the form.
 11 A. Yeah. I've never thought about it.
 12 **Q. But when you think about it in that context,**
 13 **do you think the right to free speech is**
 14 **fundamental?**
 15 MS. NELSON: Object to the form.
 16 A. To whom?
 17 **Q. To the individual speaking.**
 18 MS. NELSON: Object to the form.
 19 A. I guess it would depend on the individual.
 20 You know, I've not thought about it.
 21 **Q. Okay. In your opinion, if an employee of the**
 22 **City of Dothan tells a consumer or a defendant**
 23 **that they can seek recourse with the City**

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1 clerk if they have a claim, that that would be
 2 a matter of public concern?
 3 MS. NELSON: Object to the form.
 4 **Q. Do you understand the question?**
 5 A. No. Could you just repeat it. I was thinking
 6 about social organizations. I'm sorry.
 7 **Q. Do you think that if a government employee**
 8 **tells a citizen that if they have a claim**
 9 **against the City, they could seek recourse by**
 10 **filing that claim with the City clerk, that**
 11 **that's a matter of public concern?**
 12 MS. NELSON: Object to the form.
 13 A. Do I think that if all they told them is that
 14 you need to go to the City clerk's office? Is
 15 that your question? If that's all they said
 16 to the person, if you have a claim, you need
 17 to go to the City clerk's office?
 18 MS. NELSON: That's not his --
 19 THE WITNESS: Right. That wasn't his
 20 question.
 21 A. So, no.
 22 **Q. It's not a matter of public concern?**
 23 A. No.

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1 **Q. Well, why not? Why shouldn't the public know**
 2 **that they have a right to seek recourse with**
 3 **the City clerk?**
 4 A. I think they should know they have a right to
 5 seek recourse with the -- I think they have a
 6 right to know they need to go -- if they have
 7 a claim, they have to go to the City clerk's
 8 office to file that claim. Yeah, I think they
 9 do have that right to know just that. If you
 10 have a claim, you need to go to the City
 11 clerk's office and file it.
 12 **Q. What about the right to know that something**
 13 **wrong has been done to them by their**
 14 **government? Do they have a right to know**
 15 **that?**
 16 A. Well, who determines whether something wrong
 17 has been done by their government?
 18 **Q. Well, what if something wrong has been done,**
 19 **do they have a right to know that something**
 20 **wrong has been done to them by their**
 21 **government?**
 22 A. Generally? I mean, like in the whole world?
 23 I don't know.

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1 **Q. Well --**
 2 A. Somebody has got to determine that there has
 3 been a wrong.
 4 **Q. Well, let's assume that there has been a wrong**
 5 **and some government employee tells a consumer**
 6 **citizen/defendant that there has been a wrong,**
 7 **would that be something that that**
 8 **citizen/consumer/defendant would have a right**
 9 **to know or should have a right to know?**
 10 MS. NELSON: Object to the form. Right to
 11 know by whom?
 12 A. And who said it was wrong, that person?
 13 **Q. If they had been wronged, do they have a right**
 14 **to know that they have been wronged?**
 15 MS. NELSON: Object to the form.
 16 **Q. Is that something that the consuming public**
 17 **should know? Do you have to wrestle with this**
 18 **question?**
 19 MS. NELSON: Well, you've got me confused
 20 because I'm not sure what you're
 21 talking about. If you want to
 22 specifically ask her about Mary Beth
 23 Brackin's situation --

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<p style="text-align: right;">Page 121</p> <p>1 MR. JAFFREE: I'm asking her in general.</p> <p>2 MS. NELSON: You're asking her</p> <p>3 hypothetical questions which I don't</p> <p>4 even understand.</p> <p>5 Q. Well, do you understand the question?</p> <p>6 A. I mean, in the whole world?</p> <p>7 Q. Your attorney is trying to tell you that you</p> <p>8 don't understand, but do you not understand</p> <p>9 the question?</p> <p>10 A. No. Because you're asking in the whole world</p> <p>11 if a citizen has been wronged by the</p> <p>12 government --</p> <p>13 Q. By his government. Do you think --</p> <p>14 A. -- do they have a right to know?</p> <p>15 Q. As a general principle, is it a matter of</p> <p>16 public concern to that citizen that his</p> <p>17 government or her government has wronged them?</p> <p>18 MS. NELSON: Object to the form.</p> <p>19 Q. As a general principle.</p> <p>20 MS. NELSON: Right to know from whom?</p> <p>21 Q. Right to know from any member of government</p> <p>22 telling that person that your government has</p> <p>23 wronged you?</p>	<p style="text-align: right;">Page 123</p> <p>1 A. Wronged them how?</p> <p>2 Q. All right. So let's be more specific as your</p> <p>3 attorney suggested.</p> <p>4 A. Please.</p> <p>5 Q. What if a citizen had been wrongfully arrested</p> <p>6 in the City of Dothan in the municipal court</p> <p>7 or at least by process that was issued by the</p> <p>8 municipal court, they were wrongfully arrested</p> <p>9 by mistake, by error, no malice but just</p> <p>10 wrongfully arrested? Is that something that</p> <p>11 is a matter of public concern, the fact that</p> <p>12 they have been wrongfully arrested?</p> <p>13 MS. NELSON: Object to the form.</p> <p>14 A. I think it depends on --</p> <p>15 THE WITNESS: Do I answer?</p> <p>16 MS. NELSON: Yeah.</p> <p>17 A. I think it depends on how you define public</p> <p>18 concern. I mean, is it the concern of the</p> <p>19 entire public that this person has been</p> <p>20 wrongfully arrested and should this person go</p> <p>21 out broadcasting to the entire world, hey,</p> <p>22 this person has been wrongfully arrested? I</p> <p>23 don't know. I don't know how what -- I don't</p>
<p style="text-align: right;">Page 122</p> <p>1 MS. NELSON: Object to the form.</p> <p>2 Q. The information of something they have a right</p> <p>3 to know that the government has wronged them?</p> <p>4 Now, the transcript is only going to show</p> <p>5 a response. The reality is that you're taking</p> <p>6 a long time to respond. And I'm asking</p> <p>7 you -- I mean, you're taking a long time to</p> <p>8 respond on most of these questions, a long</p> <p>9 time.</p> <p>10 But I'm asking you, is this something that</p> <p>11 you're wrestling with in your own conscience?</p> <p>12 A. I just think it's a vague, hypothetical</p> <p>13 question.</p> <p>14 Q. What's vague about that?</p> <p>15 MS. NELSON: I don't have a clue what</p> <p>16 you're --</p> <p>17 Q. What's vague about the principle? You think</p> <p>18 the principle is vague?</p> <p>19 A. Whether or not a person had the right to know</p> <p>20 that their government has wronged them.</p> <p>21 MS. NELSON: Object to the form. That is</p> <p>22 so hypothetical, so not</p> <p>23 understandable.</p>	<p style="text-align: right;">Page 124</p> <p>1 know how you define public concern.</p> <p>2 Q. Let's assume --</p> <p>3 A. What is public concern, Mr. Jaffree? How do</p> <p>4 you define public concern?</p> <p>5 Q. Something the members of the public would have</p> <p>6 a right to know, something that is of import</p> <p>7 to members of the public.</p> <p>8 A. So every claim that's filed against the City</p> <p>9 of Dothan by a citizen, an employee should go</p> <p>10 tell everybody, hey, this person has been</p> <p>11 wronged, they should have a right to do that?</p> <p>12 Is that what you're asking me?</p> <p>13 Q. Well, that's not what I asked you.</p> <p>14 A. I don't know. That's what I'm saying. I</p> <p>15 don't what you're asking me.</p> <p>16 Q. Let me see if this hypothetical one you're</p> <p>17 going to have to wrestle with as well.</p> <p>18 MS. NELSON: Well, I'm going to --</p> <p>19 THE WITNESS: Do you have the Fondren</p> <p>20 investigation stuff? Can we see that?</p> <p>21 MS. NELSON: The Fondren stuff?</p> <p>22 THE WITNESS: Yes.</p> <p>23 MR. JAFFREE: We're going to get to the</p>

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<p>1 Fondren stuff in a minute.</p> <p>2 MS. NELSON: Well, you're engaging her --</p> <p>3 I wish you would just get to the</p> <p>4 Fondren stuff. You're engaging her in</p> <p>5 a dialect to try to show your claims,</p> <p>6 to engage her into legal issues and</p> <p>7 questions which you would not allow me</p> <p>8 to question your plaintiffs on</p> <p>9 about --</p> <p>10 MR. JAFFREE: My clients are neophytes.</p> <p>11 MS. NELSON: -- Constitution --</p> <p>12 MR. JAFFREE: I mean, they have no</p> <p>13 schooling and -- the little smattering</p> <p>14 of law they know is what they got from</p> <p>15 the municipal office, which on --</p> <p>16 MS. NELSON: Well, the fact that the</p> <p>17 judge --</p> <p>18 MR. JAFFREE: -- which on the total scheme</p> <p>19 of things is not very much.</p> <p>20 MS. NELSON: Well, still doesn't mean you</p> <p>21 can question her on all theories of</p> <p>22 constitutional law.</p> <p>23 MR. JAFFREE: I suspect that a review in</p>	<p>1 Q. What about informing a citizen that they could</p> <p>2 request the municipal judge to appoint another</p> <p>3 public defender; is that a matter of public</p> <p>4 concern that defendants should know?</p> <p>5 A. That what?</p> <p>6 MS. NELSON: Object to the form.</p> <p>7 Q. That they can ask the judge to appoint another</p> <p>8 public defender, is that something that a</p> <p>9 defendant should know?</p> <p>10 MS. NELSON: Object to the form.</p> <p>11 A. If they can -- if they have a right to ask the</p> <p>12 judge to use another public defender?</p> <p>13 Q. And if you tell them that is --</p> <p>14 A. And that's all they say? You can ask the</p> <p>15 judge to give you another public defender.</p> <p>16 That's all.</p> <p>17 Q. If you tell them that, then that's okay?</p> <p>18 A. That's it, right.</p> <p>19 Q. So you're saying that that is a matter that</p> <p>20 they should have a right to tell somebody?</p> <p>21 A. Yeah.</p> <p>22 Q. In your opinion, do employees give up their</p> <p>23 right to free speech and association when they</p>
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<p>1 court would say that I could treat a</p> <p>2 sitting judge who has several years of</p> <p>3 law school who's been an attorney for</p> <p>4 years is different.</p> <p>5 MS. NELSON: I disagree. The facts are --</p> <p>6 you can ask her the facts of this</p> <p>7 case. The facts are what they are.</p> <p>8 You can argue all day wether it's</p> <p>9 public concern, whether the City had</p> <p>10 business reason -- justifiable reasons</p> <p>11 for placing certain restraints in</p> <p>12 effect. And we can argue with the</p> <p>13 courts all day long. But to ask this</p> <p>14 judge hypotheticals for the rest of</p> <p>15 this morning is inappropriate, and I'm</p> <p>16 going to continue to object.</p> <p>17 MR. JAFFREE: I'm moving.</p> <p>18 MS. NELSON: And we can be here until the</p> <p>19 cows come home.</p> <p>20 MR. JAFFREE: Well, I'm not going to wait</p> <p>21 until the cows come home because I'm</p> <p>22 going to move on.</p> <p>23 (Brief recess)</p>	<p>1 enter the public square?</p> <p>2 MS. NELSON: Object to the form.</p> <p>3 A. No.</p> <p>4 Q. How do you define due process?</p> <p>5 MS. NELSON: Object to the form. It calls</p> <p>6 for legal conclusion.</p> <p>7 A. Generally?</p> <p>8 Q. Yeah. Generally, how do you define that?</p> <p>9 A. Due process. Just a -- you know, a mechanism</p> <p>10 by which a person is afforded a hearing on an</p> <p>11 issue.</p> <p>12 Q. Are you familiar with substantive due process?</p> <p>13 A. Somewhat, yes.</p> <p>14 Q. How do you define substantive due process?</p> <p>15 MS. NELSON: Object to the form. Calls</p> <p>16 for legal conclusion.</p> <p>17 MR. JAFFREE: She said she's familiar.</p> <p>18 Q. How do you define it?</p> <p>19 MS. NELSON: Object to the form. She said</p> <p>20 generally.</p> <p>21 A. Yeah. Generally, just due process, just the</p> <p>22 ability of a person to have a -- to be heard</p> <p>23 on an issue.</p>

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<p style="text-align: right;">Page 129</p> <p>1 Q. Well, isn't substantive due process a little 2 bit something more than that? 3 A. If that's how you define it. I don't know. 4 That's what I think it is. 5 Q. If I tell you that, in my view, substantive 6 due process means that there's some things 7 people shouldn't lose a property interest 8 regardless of what kind of procedure of 9 process is afforded them. 10 Would you agree that this -- 11 MS. NELSON: Object to the form. 12 A. No. 13 Q. You don't agree to that? Okay. 14 A. I would agree that that's your opinion. 15 Q. Goodness. My opinion. Okay. 16 Do you agree that merit system employees 17 have a property interest in continued 18 employment? 19 MS. NELSON: Object to the form. It calls 20 for legal conclusion and an opinion. 21 Q. Do you know whether or not they have a 22 property interest in continuing employment? 23 If you know.</p>	<p style="text-align: right;">Page 131</p> <p>1 system employee may have in challenging an 2 employment termination decision, does she or 3 he have any substantive rights? 4 MS. NELSON: Object to the form. 5 A. Anywhere in the world or in the city of 6 Dothan? 7 Q. In the city of Dothan. 8 MS. NELSON: Object to the form. 9 A. Yeah. I don't know. I'm not familiar with 10 what rights are afforded. 11 Q. Was Mary Brackin a merit system employee as 12 far as you know? 13 A. Yes, as far as I know. 14 MS. NELSON: Object. When you say "merit 15 system," what do you mean? 16 MR. JAFFREE: In the classified 17 system a -- 18 MS. NELSON: Classified, non-probationary 19 employee? 20 MR. JAFFREE: Yeah, classified, 21 non-probationary employee. 22 MS. NELSON: Okay. 23 A. Yes.</p>
<p style="text-align: right;">Page 130</p> <p>1 A. I would agree, yes, that they do have a 2 property interest. 3 Q. You agree. Okay. Good. 4 And this right can only be taken for good 5 cause shown? 6 MS. NELSON: Object to the form. 7 A. Do I agree that it can be only be taken with 8 good cause shown? 9 Q. Yeah. 10 A. Their property right -- their property 11 interest in employment can only been taken for 12 good cause shown. I would agree with that. 13 Yes. 14 Q. All right. I also asked you about substantive 15 rights, and you sort of disagreed with the 16 substantive rights of municipal employees. 17 A. No. 18 MS. NELSON: I object. 19 A. With your definition. 20 MS. NELSON: I object to the 21 characterization of her comment. 22 MR. JAFFREE: Well, I'm asking. 23 Q. In addition to procedural rights that a merit</p>	<p style="text-align: right;">Page 132</p> <p>1 MS. NELSON: That's what you mean by merit 2 employee? 3 MR. JAFFREE: Well, yes. But they 4 generally mean that the -- they are -- 5 MS. NELSON: Who is "they?" 6 MR. JAFFREE: Courts. They generally 7 classify merit system employees, are 8 employees that after they have gone 9 through their probationary period can 10 only be terminated for cause. 11 MS. NELSON: Is that your -- that's 12 your -- 13 MR. JAFFREE: That's my opinion of the 14 law. 15 MS. NELSON: -- opinion. 16 MR. JAFFREE: Prove me wrong. 17 Q. Anyway, starting with the first day of your 18 hire, ending with the last day of Mary 19 Brackin's employment, can you identify all the 20 employees that you have disciplined in any 21 manner? 22 A. No. 23 Q. You can't identify them?</p>

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<p style="text-align: right;">Page 133</p> <p>1 A. No, I can't identify every employee that I've</p> <p>2 disciplined since Mary Beth was hired till</p> <p>3 today, because I don't know when Mary Beth was</p> <p>4 hired and it covers along time span.</p> <p>5 Q. All right. Well, let's say since she was</p> <p>6 rehired in 2001, up to the time that she was</p> <p>7 terminated, do you know all the employees that</p> <p>8 you have terminated?</p> <p>9 A. Terminated?</p> <p>10 Q. I'm sorry. You have disciplined.</p> <p>11 A. No.</p> <p>12 Q. Let's me ask you this: Have you ever</p> <p>13 disciplined a black employee?</p> <p>14 A. Specifically, a black employee? I don't</p> <p>15 remember.</p> <p>16 Q. Have you ever disciplined specifically a white</p> <p>17 employee?</p> <p>18 A. It depends on what you mean by "discipline."</p> <p>19 Do you mean a personnel writeup, a memo like</p> <p>20 Nancy did, or e-mail. She said that was</p> <p>21 discipline when she e-mailed somebody. So --</p> <p>22 Q. Well, how do you define discipline?</p> <p>23 A. No. How do you define it? Because I've got</p>	<p style="text-align: right;">Page 135</p> <p>1 it counsels them on something they did and</p> <p>2 punishes them in some way for their actions.</p> <p>3 Yes.</p> <p>4 Q. The memo's got to punish them?</p> <p>5 A. For it to be discipline.</p> <p>6 Q. Have you ever sent a memo punishing some black</p> <p>7 employee for something that they did?</p> <p>8 A. Have I ever sent a memo -- I'm not -- I might</p> <p>9 have.</p> <p>10 Q. Do you know whether you have?</p> <p>11 A. No, I don't know whether I have or not</p> <p>12 specifically.</p> <p>13 Q. Have you ever sent a memo or other written</p> <p>14 document punishing some white employee for</p> <p>15 something that they have done?</p> <p>16 A. I might have. I -- I'm not -- I don't know.</p> <p>17 I'm not --</p> <p>18 Q. You don't know whether you have or not?</p> <p>19 A. I don't remember every specific incident if I</p> <p>20 did send a memo.</p> <p>21 Q. Do you remember any specific incident?</p> <p>22 A. No.</p> <p>23 Q. You don't remember any --</p>
<p style="text-align: right;">Page 134</p> <p>1 to answer your question.</p> <p>2 Q. I'm asking you the question: How do you</p> <p>3 define discipline?</p> <p>4 A. How do I define discipline? When I whip my</p> <p>5 children. I'm sorry. But that's what I think</p> <p>6 of as discipline.</p> <p>7 Q. As far as a employee of the City of Dothan in</p> <p>8 the Judicial Department, how do you define</p> <p>9 discipline?</p> <p>10 A. How do I define discipline? I mean, I guess</p> <p>11 it could be any number of means: verbal</p> <p>12 counseling, writeup, e-mail.</p> <p>13 Q. Okay.</p> <p>14 A. Let me think of all the forms of discipline:</p> <p>15 verbal counseling, write-ups, e-mails, memos.</p> <p>16 Q. So it's your testimony that Nancy's testimony</p> <p>17 that she sent a memo to an employee is a form</p> <p>18 of discipline?</p> <p>19 A. That was Nancy's testimony. I agree with</p> <p>20 that.</p> <p>21 Q. Is that your view, that that's a form of</p> <p>22 discipline?</p> <p>23 A. It depends on what the memo says. If it --if</p>	<p style="text-align: right;">Page 136</p> <p>1 A. No.</p> <p>2 Q. -- specific incident?</p> <p>3 A. I don't remember any.</p> <p>4 Q. Okay. Have you ever terminated a white</p> <p>5 employee?</p> <p>6 A. Ever in life?</p> <p>7 Q. During the time that you was a municipal judge</p> <p>8 with the City Of Dothan?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know the names of the black employees</p> <p>11 that you have terminated since you have been a</p> <p>12 municipal judge with the City of Dothan?</p> <p>13 A. No, I don't.</p> <p>14 Q. You don't know the names of the employees that</p> <p>15 you have terminated since you have been a</p> <p>16 municipal judge with the City of Dothan?</p> <p>17 A. Do I know each and every name?</p> <p>18 Q. Well, first, do you know each and every name?</p> <p>19 MS. NELSON: Each and every name of what?</p> <p>20 MR. JAFFREE: Of the employees that she</p> <p>21 has terminated since she's been a</p> <p>22 municipal judge with the City of</p> <p>23 Dothan.</p>

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1 MS. NELSON: Any names is what you're
2 asking?
3 MR. JAFFREE: Well, first, she asked me
4 each and every name.
5 MS. NELSON: Each and every name?
6 MR. JAFFREE: So I'm asking her a
7 question.
8 **Q. Do you know each and every name?**
9 MS. NELSON: Just right here from memory?
10 MR. JAFFREE: Well, from however.
11 **Q. Do you know each and every name?**
12 A. I'm not sure that if I gave you a list, it
13 would be all inclusive.
14 **Q. Well, can you give me a list?**
15 A. Of every employee that's been terminated by
16 the City of Dothan.
17 **Q. By you?**
18 A. By me.
19 **Q. By your hand, by your instigation?**
20 MS. NELSON: Object to the form.
21 A. By my instigation?
22 MS. NELSON: Object to the form.
23 **Q. That you had some involvement in the**

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1 **termination of this employee that was employed**
2 **with the Judicial Department during your**
3 **tenure for the City of Dothan?**
4 A. Well, there was one employee that was
5 terminated for testing positive for drugs.
6 **Q. Who was that?**
7 A. I don't remember her name. Allison. But I
8 don't remember her last name.
9 There was another employee who
10 falsified --
11 **Q. Well --**
12 A. No. I've got to tell you why because I don't
13 --
14 **Q. Well, if you insist on telling me why, go**
15 **ahead.**
16 A. There was another employee who was terminated
17 for falsifying a time card, putting down time,
18 saying that she was here for a week when she
19 was not.
20 **Q. Who is that?**
21 A. I don't remember. That would be Debbie Irby.
22 Then her supervisor --
23 **Q. Well, excuse me. Let me stop you for a**

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1 **second. Debbie Irby wasn't terminated, was**
2 **she?**
3 A. Well, she was allowed to resign, so strike her
4 through as a terminated employee.
5 **Q. But you was going to terminate her?**
6 A. I don't remember. I -- I was just including
7 her in the list.
8 **Q. Okay.**
9 A. She resigned so I didn't -- that -- that
10 wasn't the question. I guess if that's what
11 you're saying.
12 **Q. Anyone else associated with Debbie on this**
13 **time card thing?**
14 A. Well, maybe they didn't -- I can't give you a
15 list of people who were terminated, then,
16 because some of them might have resigned.
17 **Q. Anyone else associated with Debbie Irby**
18 **dealing with that time card?**
19 A. Whether they were terminated or resigned? Is
20 that what you're asking me?
21 **Q. Yeah, terminated or resigned associated with**
22 **Debbie?**
23 A. So we're adjusting the question now to

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1 employees that were either terminated or
2 resigned? I can include either category?
3 **Q. Well, that you caused to resign.**
4 MS. NELSON: Object to the form.
5 A. I didn't -- no.
6 **Q. Well, then let's just limit it to terminated**
7 **then. Okay? Terminated. You're the one that**
8 **gave me Debbie Irby's name. But, fine, we'll**
9 **strike her.**
10 A. You said she resigned.
11 **Q. Well, I just wanted to clarify that because**
12 **the Record is going to suggest that she**
13 **resigned.**
14 A. Yeah.
15 **Q. But who were you involved with that was**
16 **terminated?**
17 A. I guess terminated would be the employee who
18 testified -- who tested positive for drugs.
19 Whether she was terminated or resigned, I
20 don't remember.
21 **Q. But Allison may have resigned?**
22 A. The employee who falsified her time card and
23 somebody turned it in to Personnel. The

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1 supervisor who signed the time card that was
2 falsified might have been terminated or
3 resigned. I'm not sure.
4 **Q. Who was that?**
5 A. Who?
6 **Q. Are we talking about Debbie Irby, or are we**
7 **talking about somebody else?**
8 MS. NELSON: You're asking who was Debbie
9 Irby's supervisor? Is that who --
10 A. Donna Nicholson was Debbie Irby's --
11 **Q. So you terminated Donna Nicholson?**
12 A. I'm not sure whether she was terminated or
13 resigned.
14 **Q. Can we stop at Donna Nicholson a minute? And**
15 **let me ask you, Donna Nicholson is the one**
16 **that was involved in placing a adverse entry**
17 **in the evaluation of Mary Brackin I think in**
18 **2001; is that correct?**
19 A. I don't remember.
20 **Q. And do you remember the incident involving**
21 **Ms. Ralpeje? Do you remember Ms. Ralpeje?**
22 A. I remember the name Ralpeje.
23 **Q. And do you remember initiating an internal**

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1 **affairs investigation of Ms. Ralpeje?**
2 MS. NELSON: Object to the form.
3 A. Of allegations made by a bondsman and
4 Mrs. Ralpeje?
5 **Q. Well, let's back up. Ms. Ralpeje didn't make**
6 **any accusation did she?**
7 MS. NELSON: Object to the form.
8 A. Ralpeje?
9 **Q. Ms. Ralpeje did not make any allegation, did**
10 **she?**
11 A. She did about --
12 **Q. Well, the record says that she didn't make any**
13 **allegation.**
14 MS. NELSON: Well, I thought you were
15 asking this witness as to the Ralpeje
16 incident?
17 MR. JAFFREE: We're getting to that.
18 MS. NELSON: And you're not letting her
19 tell what happened. You're trying to
20 tell her how to testify.
21 MR. JAFFREE: Well, she's saying
22 something, I'm trying to get some
23 clarity.

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1 **Q. You're saying Ms. Ralpeje complained saying**
2 **what?**
3 A. She made allegations that she had been told by
4 a magistrate that we had had problems with a
5 public defender, that he wasn't any good, that
6 he should not have let her plead guilty to
7 that DUI. And -- and she came back in the
8 open court in front of people, saying all
9 that.
10 And then we had a bondsman come up and
11 said that he felt threatened because
12 Ms. Brackin had called him at home the night
13 before and asked him to change his testimony
14 because she didn't say what he -- what --
15 anyway, he was upset because he wanted to know
16 how Ms. Brackin got his number at home to call
17 him. And he wanted -- and he said that she
18 called him and asked him. So those were
19 allegations that I asked for an investigator
20 to look into.
21 It also involved Ms. Ralpeje's mother or
22 her sister who was in the lobby also at the
23 time that Ms. Brackin talked to Ms. Ralpeje.

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1 And -- and I did ask for an investigator
2 because we needed their expertise in dealing
3 with witnessed who are not employees of the
4 City of Dothan.
5 **Q. We'll talk about this investigation later.**
6 A. That's the whole gist of it.
7 **Q. But did you get the results of the**
8 **investigation?**
9 A. I think her supervisor got the results of the
10 investigation.
11 **Q. Okay. Did you have an opportunity to review**
12 **the results of the investigation?**
13 A. I'm sure I did, but I don't remember
14 specifically.
15 **Q. And the results of the investigation would**
16 **have included the transcript of the**
17 **investigators?**
18 A. I'm not sure what all it included.
19 **Q. But it could have included the transcript?**
20 A. It could have.
21 **Q. Now, the transcript says that Ms. Ralpeje did**
22 **not say that, did not make a complaint about**
23 **Ms. Brackin --**

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1 A. She did not make a complaint about
 2 Ms. Brackin; she made a complaint about her
 3 public defender.
 4 **Q. Well, she didn't make a complaint that**
 5 **Ms. Brackin had said anything bad about her**
 6 **public defender.**
 7 A. She did say that --
 8 **Q. Well, the record --**
 9 A. -- in open court.
 10 **Q. The record says that she didn't say that.**
 11 MS. NELSON: What record are you talking
 12 about?
 13 MR. JAFFREE: The transcript.
 14 MS. NELSON: You're saying that
 15 Ms. Brackin said she didn't say that.
 16 MR. JAFFREE: Ms. Brackin said she didn't
 17 say that? I'm saying that Ms. Ralpeje
 18 said she didn't say that.
 19 MS. NELSON: Do you have the record you
 20 could show the judge?
 21 MR. JAFFREE: Well, the record will be
 22 produced. But I'm trying to --
 23 **Q. Did you have an opportunity to observe the**

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1 **record?**
 2 A. I'm sure I did at some point.
 3 **Q. Okay. And if the record says that Ms. Ralpeje**
 4 **did not say that, you're saying that she did?**
 5 A. Yeah. I was there.
 6 **Q. And are you saying that Ms. Ralpeje's other**
 7 **person who was with her said that as well?**
 8 A. No, I didn't say what the other person said.
 9 I said that the other person was in the -- the
 10 bondsman and either her sister or her mother
 11 were in the lobby with her. And so because
 12 they were -- the mother and the sister was
 13 there, she was in -- she was part of the
 14 investigation. But I didn't do the
 15 investigation. No. I asked for the
 16 investigators to look into it.
 17 **Q. Now, the person that was involved was**
 18 **Shaun -- Shaun is it? Is that his name,**
 19 **Shaun?**
 20 A. Which person?
 21 **Q. The public defender.**
 22 A. Was Shaun McGhee.
 23 **Q. Shaun McGhee.**

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1 A. More than likely.
 2 **Q. And at that time, Shaun McGhee was engaged to**
 3 **Michelle Sellers?**
 4 A. At some point. I'm not sure that at that time
 5 they were.
 6 **Q. But he could have been engaged to Michelle?**
 7 A. Could have.
 8 **Q. And Michelle Sellers took an active role in**
 9 **this case, didn't she?**
 10 A. I don't think so.
 11 **Q. You don't think so?**
 12 A. No.
 13 **Q. Do you think Michelle Sellers was trying to**
 14 **come up with theories on how Mary Beth could**
 15 **be punished?**
 16 A. No.
 17 **Q. She wasn't?**
 18 A. The bondsman is what prompted the
 19 investigation of Mary Beth because he -- he
 20 was complaining about how did she get his
 21 number as if she had used court documents to
 22 get his number.
 23 And Ms. Ott who was a prosecutor at that

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1 time said that we need to look into it in case
 2 he brought some kind of action. He was very
 3 upset when he came in --
 4 **Q. Is your testimony --**
 5 A. -- because he said that Mary Beth called him
 6 at home and threatened -- not threatened. He
 7 felt threatened because she asked him to
 8 change his testimony.
 9 **Q. And, you know, Mary Beth disagreed with --**
 10 A. Yeah, I do.
 11 **Q. -- with that statement?**
 12 A. I know that.
 13 **Q. All right. As a matter of fact, the only one**
 14 **that makes the statement about something that**
 15 **Mary Beth may have said adverse to a --**
 16 **concerning a public defender was the bondsman;**
 17 **isn't that correct?**
 18 A. No. Ms. Ralpeje said that when she came back
 19 to court.
 20 **Q. And isn't it also correct that the public**
 21 **defender had only been in court just one**
 22 **previous time; and, therefore, Ms. Brackin**
 23 **would have no knowledge of any bad performance**

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1 of him. Is that correct?

2 A. No, I don't agree with that. I think Shaun

3 had been there before.

4 **Q. Well, what if the record shows that he hasn't**

5 **been there before?**

6 A. I don't know. But I just think -- I don't

7 remember him --

8 **Q. Here's the point I'm trying to get at: Do you**

9 **recall having a debate on this issue with**

10 **Debbie -- Donna Nicholson and you wanted Donna**

11 **to strongly discipline Ms. Brackin? Do you**

12 **remember that?**

13 A. No.

14 **Q. And she said no, she don't think that she**

15 **should discipline her, and you insisted pretty**

16 **much. You don't remember that dialogue?**

17 A. No. She was not disciplined for that, was

18 she?

19 **Q. Well --**

20 MS. NELSON: No, she wasn't.

21 THE WITNESS: No, I didn't prevail if

22 that's what he's saying.

23 **Q. Well, no, you didn't prevail.**

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1 A. Well, you said, would I overrule her?

2 **Q. But shortly thereafter, Donna got fired. Now,**

3 **let's talk about this firing.**

4 **Isn't it true that Donna got fired merely**

5 **because she was giving an employee comp time**

6 **but the employee had worked -- but hadn't**

7 **worked the week that she was claiming, but**

8 **giving her comp time for the next week? Isn't**

9 **that true?**

10 A. That's not my understanding.

11 **Q. And isn't it also true that you told Donna**

12 **that had she asked you, you would have**

13 **approved it, but since she didn't ask you in**

14 **advance that she was being fired?**

15 A. No. Can I answer your question, Mr. Jaffree.

16 **Q. This is not true?**

17 A. That is not true.

18 One of the employees in the magistrates'

19 office who did not like Donna and Debbie

20 copied the time cards where Debbie put that

21 she was here Monday, Tuesday, Wednesday,

22 Thursday, where she put eight hours. She

23 didn't put comp time. She put that she was

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1 there working. She was gone to her brother's

2 wedding in Wisconsin or somewhere.

3 One of their friends sent it over to

4 Personnel. It never came through me.

5 Personnel called and said, we've got a time

6 card for a woman saying she worked a week, her

7 supervisor signed it knowing she was not there

8 that week, and you need to address it. And

9 they called me over. I didn't know anything

10 about it.

11 **Q. And you're saying it didn't have anything to**

12 **do with comp time; is that your testimony?**

13 A. With what?

14 **Q. With comp time, that she was getting paid**

15 **for --**

16 A. Not that I --

17 **Q. comp time.**

18 A. If it did, I don't see --

19 MS. NELSON: What is comp time.

20 A. -- why they would've fired -- why they

21 fired -- comp time.

22 MR. JAFFREE: What is comp time?

23 MS. NELSON: Yes.

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1 MR. JAFFREE: Are you familiar with the

2 word "comp time?"

3 MS. NELSON: I want to know what you meant

4 by it.

5 MR. JAFFREE: To compensate her for her

6 time that she had worked one week and

7 she's claiming it another week.

8 A. Well, she should have put it on that week.

9 She shouldn't have put that she worked Monday,

10 January 28th, eight hours; Tuesday, January

11 29th, eight hours; Wednesday, January -- and

12 if -- that implies that she worked those three

13 days. And her supervisor signed it saying she

14 was there those three days. When they found

15 out that it wasn't, they said her time card

16 was falsified.

17 **Q. Okay. But you summarily terminated her,**

18 **right?**

19 A. No.

20 MS. NELSON: Object to the form.

21 A. I did not summarily. We had a hearing. She

22 had a hearing. She could have appealed it. I

23 mean, they -- she had due process.

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<p style="text-align: right;">Page 153</p> <p>1 Remember when you were asking me about due</p> <p>2 process? Remember you were asking me about</p> <p>3 due process? She had all the due process that</p> <p>4 the civil rights thing you're -- everything</p> <p>5 that Civil Service Act affords her, she had</p> <p>6 it. And she chose -- she did not appeal it.</p> <p>7 Q. But the bottom line is that --</p> <p>8 A. If she felt wronged, she should've appealed</p> <p>9 it. She had recourse.</p> <p>10 Q. You was angry with her because --</p> <p>11 A. No.</p> <p>12 Q. -- she did not discipline --</p> <p>13 A. No, I was not angry with her.</p> <p>14 Q. Well, let me finish the question.</p> <p>15 A. I've never been angry with her.</p> <p>16 Q. She did not discipline --</p> <p>17 A. No.</p> <p>18 Q. -- Ms. Brackin?</p> <p>19 A. No. No. Because if I -- I could have</p> <p>20 disciplined her if I thought she needed it if</p> <p>21 I wanted to overrule her.</p> <p>22 Q. Did you say Ms. Brackin's friend copied the</p> <p>23 time card?</p>	<p style="text-align: right;">Page 155</p> <p>1 tenure?</p> <p>2 Q. Yeah.</p> <p>3 A. Kevin Sorrells was terminated.</p> <p>4 Q. Did you play a role in that?</p> <p>5 A. I'm sure I did as department head. He was a</p> <p>6 probational employee who other magistrates</p> <p>7 told me they were afraid of because he threw</p> <p>8 temper tantrums, threw files, threw a book and</p> <p>9 hit the window.</p> <p>10 Q. If I asked you specifics about --</p> <p>11 A. Told me he was going to make me fire him.</p> <p>12 Q. Hold on. Hold on. If I asked you specifics</p> <p>13 about these throwing books and temper</p> <p>14 tantrums --</p> <p>15 A. I've seen him throw a fit. Mary Beth has,</p> <p>16 too.</p> <p>17 Q. You can't provide any specifics, could you?</p> <p>18 A. Yeah. I've seen Kevin throw files when he got</p> <p>19 mad and --</p> <p>20 Q. Were there any memos concerning his file</p> <p>21 throwing?</p> <p>22 A. I don't know if there were or not. He was on</p> <p>23 probation.</p>
<p style="text-align: right;">Page 154</p> <p>1 A. I said one of Donna and Debbie's friends in</p> <p>2 the magistrates' office sent it over to</p> <p>3 Personnel. One of their friends who knew that</p> <p>4 she wasn't there that week. We had no way of</p> <p>5 knowing that -- who was there.</p> <p>6 Q. Okay. I sort of got stuck with Donna.</p> <p>7 Can you think of any other employees? And</p> <p>8 then I'm going to break. Any other employees</p> <p>9 that you terminated?</p> <p>10 A. No.</p> <p>11 Q. So possibly Allison, may have resigned or may</p> <p>12 have been terminated; Debbie Irby, who may</p> <p>13 have resigned or may have been terminated; and</p> <p>14 Donna is the only ones you can recall?</p> <p>15 A. And you said resigned or terminated.</p> <p>16 Q. Well, I think you said they may have</p> <p>17 resigned. But can you recall anybody else</p> <p>18 that you caused to be to terminated?</p> <p>19 A. That I caused to be terminated?</p> <p>20 Q. Yeah.</p> <p>21 MS. NELSON: Object to the form.</p> <p>22 Q. Well, so far, you've given me one name.</p> <p>23 A. Employees who were terminated during my</p>	<p style="text-align: right;">Page 156</p> <p>1 Q. But if there were, I should have them, right?</p> <p>2 A. I don't know. If it's in his personnel file.</p> <p>3 Q. Then I should have it.</p> <p>4 A. I don't know.</p> <p>5 Q. Is that correct?</p> <p>6 A. I don't maintain personnel files.</p> <p>7 Q. All right. Who else?</p> <p>8 A. Who was terminated? Nancy Martin was</p> <p>9 terminated.</p> <p>10 Q. And the two Marys, correct?</p> <p>11 A. Mary -- Mary Turner was terminated. Mary Beth</p> <p>12 Brackin.</p> <p>13 Q. Anyone else?</p> <p>14 A. Not that I can think of. I'm sure there are</p> <p>15 others, but I can't think of them right now.</p> <p>16 Q. Some others that you may have caused the</p> <p>17 termination?</p> <p>18 A. There might have been.</p> <p>19 They caused their own termination by their</p> <p>20 actions. Their actions caused their</p> <p>21 termination. I didn't do any of it.</p> <p>22 Q. How do I get a list of these people who was</p> <p>23 terminated by you?</p>

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<p>1 A. I don't know.</p> <p>2 Q. You don't know how I could get your list?</p> <p>3 A. No.</p> <p>4 Q. And you don't know how many there have been?</p> <p>5 A. No.</p> <p>6 Q. You have no way of finding out, let's say, at</p> <p>7 lunchtime how many people you have caused the</p> <p>8 termination of?</p> <p>9 A. Not at lunchtime, no.</p> <p>10 Q. It would take you longer than that?</p> <p>11 A. Possibly. Yes, it would take longer than</p> <p>12 lunch.</p> <p>13 MS. NELSON: You've asked this question in</p> <p>14 discovery, Mr. Jaffree.</p> <p>15 MR. JAFFREE: Yeah. And what response did</p> <p>16 I get?</p> <p>17 MS. NELSON: I've responded to it.</p> <p>18 MR. JAFFREE: Well, I'm not sure she have</p> <p>19 given me all the names. Well, she</p> <p>20 don't recall.</p> <p>21 MS. NELSON: Well, you're asking her</p> <p>22 cold. I mean, she's been judge for a</p> <p>23 number of years. She's trying to give</p>	<p>1 A. I -- if I --</p> <p>2 Q. -- ethnic identity?</p> <p>3 A. I probably would be if I had a specific name,</p> <p>4 but I just -- I didn't -- I didn't base their</p> <p>5 employment on their ethnicity. It didn't play</p> <p>6 any part in their termination. It would have</p> <p>7 been solely based on some action by them which</p> <p>8 caused them to be terminated. It was not</p> <p>9 initiated because of their race or sex.</p> <p>10 MR. JAFFREE: Can we break now?</p> <p>11 (Lunch recess)</p> <p>12 Q. Michelle Bryan, you're familiar with her,</p> <p>13 aren't you?</p> <p>14 A. Yes.</p> <p>15 Q. She resigned and then withdrew her</p> <p>16 resignation, but she wasn't permitted to</p> <p>17 withdraw her resignation.</p> <p>18 Do you know the circumstances surrounding</p> <p>19 that?</p> <p>20 MS. NELSON: Object to form. Assumes</p> <p>21 facts not in evidence.</p> <p>22 A. I know that Michelle Bryan gave --</p> <p>23 MR. JAFFREE: From facts based on</p>
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<p>1 you a best answer. I've given you</p> <p>2 written responses.</p> <p>3 Q. I don't have any other questions right now.</p> <p>4 We could break. And I'll move on. I</p> <p>5 apologize for getting into this dialogue with</p> <p>6 you about Ms. Nichols. I just want to clarify</p> <p>7 the one point of comp time, and you're</p> <p>8 disputing that comp time?</p> <p>9 A. I'm not -- no, I'm not disputing comp time as</p> <p>10 a premise. I'm just not --</p> <p>11 MS. NELSON: She's testified that she was</p> <p>12 terminated for falsification on time</p> <p>13 cards.</p> <p>14 A. And that she had all the due process afforded</p> <p>15 her by the Civil Service Act.</p> <p>16 Q. One point. Everybody that you have terminated</p> <p>17 so far has been Caucasian; is that correct?</p> <p>18 A. I'm not sure. Not -- they might have been.</p> <p>19 Q. Is there any possibility that somebody who was</p> <p>20 not Caucasian was terminated by you?</p> <p>21 A. I've not thought about the ethnicity of the</p> <p>22 people that were terminated.</p> <p>23 Q. You're not aware of their --</p>	<p>1 documents you gave me.</p> <p>2 A. I know she gave her resignation. And, you</p> <p>3 know, at that time Personnel was probably</p> <p>4 notified. All that went through our court</p> <p>5 administrator.</p> <p>6 Q. You had no role to do in the denial of her</p> <p>7 attempt to withdraw her resignation?</p> <p>8 A. Well, she -- she was resigned. She gave</p> <p>9 notice and resigned.</p> <p>10 Q. Yeah. But then she gave notice of her intent</p> <p>11 to rescind that resignation.</p> <p>12 A. Yeah. I don't know. I mean, I don't know</p> <p>13 whether -- you know if Personnel had already</p> <p>14 been notified, and the position was opened,</p> <p>15 you know, she couldn't just rescind, I</p> <p>16 assume. But, again, you know, all that went</p> <p>17 through our court administrator. But once a</p> <p>18 person resigns -- gives their notice that</p> <p>19 they're leaving and we send it to Personnel,</p> <p>20 they close it out. You know, there's nothing</p> <p>21 we can do about it.</p> <p>22 Q. All right. What amount of job performance</p> <p>23 discretion did you permit Bettye King, the</p>

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<p style="text-align: right;">Page 161</p> <p>1 former administrator of the magistrates?</p> <p>2 A. What amount?</p> <p>3 Q. Yeah.</p> <p>4 A. In terms of percentages? You said, what</p> <p>5 amount? A lot or little?</p> <p>6 Q. I don't mean amount in terms of percentage. I</p> <p>7 mean, what degree of job performance</p> <p>8 discretion --</p> <p>9 A. I don't know.</p> <p>10 Q. -- you permitted Bettye King?</p> <p>11 A. Whatever degree of discretion she wanted. I</p> <p>12 mean, I -- you know, I try not to interfere</p> <p>13 with the day-to-day -- the only way I knew</p> <p>14 there was a problem over there is if somebody</p> <p>15 came to me or it was brought to my attention.</p> <p>16 I was not over there every day. I did</p> <p>17 not -- I could not physically be over there</p> <p>18 every day.</p> <p>19 Q. How long was Bettye King the administrator of</p> <p>20 the magistrates' office, do you know?</p> <p>21 A. I'm not sure. About two years I think.</p> <p>22 Q. And she preceded Nancy; is that correct?</p> <p>23 A. Probably, yes.</p>	<p style="text-align: right;">Page 163</p> <p>1 administrator?</p> <p>2 A. As compared to what? I mean, we're a</p> <p>3 bureaucracy, so we're always -- something is</p> <p>4 always going on.</p> <p>5 Q. Well, as compared to her predecessor?</p> <p>6 A. Her predecessor being Donna?</p> <p>7 Q. Was that her predecessor?</p> <p>8 A. The person immediately preceding her. Yes, I</p> <p>9 think Donna would be her predecessor. Just</p> <p>10 nothing specific stands out with problems.</p> <p>11 Q. Do you know why Ms. King left?</p> <p>12 A. She told me for a better job and because she</p> <p>13 was driving from Auburn to Dothan, three hours</p> <p>14 each way every day, five days a week.</p> <p>15 Q. Was Ms. King black or white?</p> <p>16 A. She was black.</p> <p>17 Q. Can you identify any occasion when you</p> <p>18 requested that Ms. King change a performance</p> <p>19 evaluation or any of the subcategories within</p> <p>20 an evaluation?</p> <p>21 MS. NELSON: Object to the form. I don't</p> <p>22 understand what you just asked.</p> <p>23 MR. JAFFREE: I cannot believe counsel is</p>
<p style="text-align: right;">Page 162</p> <p>1 Q. Did the magistrates' office have problems when</p> <p>2 Bettye King was the administrator?</p> <p>3 MS. NELSON: Object to the form.</p> <p>4 A. Right.</p> <p>5 Q. Right what, right what she did or right that</p> <p>6 you object to the form?</p> <p>7 MS. NELSON: Depending on what you meant</p> <p>8 by problems. But if she understands,</p> <p>9 she can answer it.</p> <p>10 A. Yeah. It depends on what you mean by</p> <p>11 problems.</p> <p>12 Q. Did they have personnel problems in the</p> <p>13 magistrate office when Bettye King was the</p> <p>14 administrator?</p> <p>15 A. And if I -- it just depends on what you mean</p> <p>16 by -- you'd have to ask Bettye King</p> <p>17 specifically.</p> <p>18 Q. Were you aware of any problems in the</p> <p>19 magistrate office when Bettye King was the</p> <p>20 administrator?</p> <p>21 A. Not specific problems. I mean, just a normal</p> <p>22 course of business of running an office.</p> <p>23 Q. Was it running quite well when she was the</p>	<p style="text-align: right;">Page 164</p> <p>1 having trouble understanding all these</p> <p>2 questions before --</p> <p>3 MS. NELSON: I am having a very hard time</p> <p>4 understanding your questions.</p> <p>5 Q. All right. I'll try again.</p> <p>6 Can you identify any occasion where you</p> <p>7 requested that Ms. King change a performance</p> <p>8 evaluation or any subcategory within the</p> <p>9 evaluation?</p> <p>10 A. Can I remember a specific occasion? No, I</p> <p>11 cannot remember a specific occasion when I</p> <p>12 informed -- asked Ms. Bettye King to change an</p> <p>13 evaluation or a subcategory thereof.</p> <p>14 Q. Is that something that you would normally</p> <p>15 remember?</p> <p>16 A. Not really because we have -- I mean, 12</p> <p>17 evaluations three -- twice a year. That's 24</p> <p>18 evaluations a year for the -- you know, for</p> <p>19 the past eight years.</p> <p>20 Q. A new non-tenured employee. Do you know what</p> <p>21 that means, non-tenured employee?</p> <p>22 A. No, I don't think so.</p> <p>23 MS. NELSON: There's no such thing.</p>

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1 **Q. A new non-permanent employee, non-merit system**
 2 **employee, non-classified employee, how**
 3 **frequently should they have evaluations done?**
 4 MS. NELSON: Object to the form.
 5 A. Are you talking about probationary employees?
 6 **Q. Yeah.**
 7 A. Because I -- do we have a merit system here?
 8 You keep saying "merit." I'm confused.
 9 MS. NELSON: There is no merit. That's
 10 his term.
 11 **Q. Or classified system. Merit is a broad**
 12 **category that covers people who have job**
 13 **protection in the government sector.**
 14 MS. NELSON: That's your term.
 15 A. I've never heard of --
 16 MR. JAFFREE: Do you dispute that term?
 17 I'm doing the very thing I said I
 18 wasn't going to do.
 19 A. I don't think the City of Dothan has a merit
 20 system.
 21 **Q. Regardless of whether you call it a merit**
 22 **system or classified service system or a civil**
 23 **service system.**

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1 A. Okay.
 2 **Q. Whatever you call it, how frequently is a**
 3 **probational employee evaluated?**
 4 A. I don't think there's a set number of times.
 5 And I don't think there is. But I don't
 6 know. I'd have to refer to the Personnel
 7 Rules and Regulations.
 8 **Q. You not personally familiar with them?**
 9 A. I'm familiar with them. I'm just not familiar
 10 with the specific number of times at this
 11 point.
 12 **Q. Nancy testified during her deposition that you**
 13 **was present for, at least in part, yesterday**
 14 **that during her initial or subsequent job**
 15 **interview, you told her that there was**
 16 **problems in the magistrate office.**
 17 **Do you dispute that you told her that?**
 18 A. No, I don't dispute that.
 19 **Q. Have those problems been longstanding in the**
 20 **magistrate office?**
 21 A. It depends on which problems because I think I
 22 was -- it depends on which problems.
 23 **Q. Well, whatever problems you were referring**

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1 to --
 2 A. When was I telling her?
 3 **Q. -- when you told Nancy that?**
 4 A. Well, we handle a large volume of paperwork,
 5 approximately 15 to 17,000 tickets per year,
 6 7,000 misdemeanors. And there's a lot of
 7 paperwork and a lot of loose paperwork, some
 8 of it attached by gem clips. And we were
 9 having problems with -- you know, keeping
 10 everything together. So I really wanted her
 11 to work on the filing system, on keeping
 12 paperwork together, and on cross-training
 13 magistrates. And that's something that was in
 14 place when she came, which I told her that we
 15 wanted to do.
 16 **Q. What was something that was in place?**
 17 A. That we -- we had already talked about
 18 cross-training before Nancy got there.
 19 **Q. Who put it in place?**
 20 A. We -- well, we developed the idea --
 21 **Q. Who were "we?"**
 22 A. -- when I say "in place."
 23 **Q. Who were "we?"**

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1 A. The prior administrator and -- and I had
 2 agreed that everybody needed to be
 3 cross-trained because that was one of the
 4 problems, that if one person wasn't there,
 5 there was nobody trained to take her place.
 6 **Q. Well, there was one more than one prior**
 7 **administrator. So are you talking about --**
 8 A. I don't know which. We had -- we had already
 9 went --
 10 **Q. You don't know if it was Bettye King or --**
 11 A. I don't.
 12 **Q. What's the other one's name? I keep**
 13 **forgetting her name. What's the other**
 14 **administrator prior to Bettye King; what's her**
 15 **name?**
 16 A. Prior to Bettye King would have been Donna
 17 Nicholson.
 18 **Q. So you don't know whether it was Donna that**
 19 **started the policy of cross-training or**
 20 **Bettye?**
 21 A. No. I don't -- I don't know under whose
 22 tenure it actually started. We had done it to
 23 a limited extent, but not a formalized

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1 written, you know, just let's-do-it-type
2 thing.
3 **Q. So the problem with these files, they had**
4 **existed during Ms. King's administration?**
5 A. It always exists just by the sheer volume of
6 paperwork we handle on a daily basis.
7 **Q. So you thought it was a problem that would**
8 **always be there?**
9 A. It would -- yeah, I think it will always be
10 there, but it can be managed better.
11 **Q. She also testified that you had pointed out**
12 **three bad magistrates that she needed to watch**
13 **out for.**
14 **Do you remember that testimony?**
15 A. I remember her testimony.
16 **Q. Do you remember telling her that?**
17 A. No. I don't remember specifically saying,
18 there are three bad magistrates that you have
19 to watch out for, and naming three people.
20 **Q. So that would be a disputed --**
21 A. That would be a lie, and it would be
22 unprofessional. And I would never do that as
23 a personnel administrator.

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1 **Q. I don't understand what you mean by a lie.**
2 A. It would be a lie that I said, Nancy, there
3 are three bad magistrates in that office that
4 I want you to write up and their names are. I
5 wouldn't do that.
6 **Q. So it's your testimony that Nancy is lying --**
7 A. Yes.
8 **Q. -- when she say that?**
9 A. It is my testimony that Nancy is lying when
10 she said that I told her that there were three
11 bad magistrates in the office and that I named
12 those three magistrates.
13 **Q. You would agree with me that Nancy's version**
14 **and your version cannot stand in the same**
15 **sphere in perfect harmony?**
16 MS. NELSON: Object to the form. As to
17 that particular testimony?
18 A. Nancy is lying. I never told her that.
19 **Q. She also indicated that you told her one of**
20 **the three had assaulted a member of management**
21 **and that she better be careful because they**
22 **could assault her.**
23 **Do you dispute that you told her that?**

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1 MS. NELSON: Object to the form.
2 A. Yes, that -- I deny that, that that -- telling
3 her that --
4 MS. NELSON: Okay. She'll pick it up.
5 **Q. Do you recall telling her anything at first**
6 **about any magistrate during that first**
7 **interview?**
8 A. I did not tell her anything adverse. I might
9 have told her the -- some facts but nothing
10 adverse like just intentionally negative about
11 anybody.
12 **Q. Did you give her some negative facts during**
13 **that first interview about any magistrate?**
14 A. I -- I -- no, I would not say negative facts.
15 Facts, period. It is what it is.
16 **Q. Well, facts that wasn't pleasant?**
17 A. I might have.
18 **Q. So you might have told her some bad facts**
19 **about a magistrate during that --**
20 MS. NELSON: Object to the form.
21 **Q. -- initial interview?**
22 A. No.
23 MS. NELSON: That's not her testimony.

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1 A. Right. No, I don't.
2 **Q. What is her testimony?**
3 A. My testimony is that -- that her first
4 interview was with a panel consisting of a
5 public defender, Kathleen Nemish; a city
6 prosecutor, Kevan Kelley; myself; and a police
7 captain.
8 And that I would not have sat in that
9 first interview in front of those people and
10 said, Nancy, and said the things that she said
11 I said.
12 **Q. Let me stop --**
13 A. It was a professional interview, focus on
14 Nancy's qualifications for the job, which I
15 now see she -- which I later found out she
16 misrepresented.
17 **Q. I mean, you've certainly given me a lot of**
18 **unsolicited information right now. But if I**
19 **could get you back --**
20 A. You only want to hear --
21 **Q. -- to some questions that I want to give to**
22 **you.**
23 **You indicated that a police captain was in**

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<p>1 on that interview?</p> <p>2 A. Uh-huh (positive response).</p> <p>3 MS. NELSON: You've got to say yes or no.</p> <p>4 A. Yes.</p> <p>5 Q. What role did the police captain play?</p> <p>6 A. Just sitting in on the interview process</p> <p>7 because that was one of the departments with</p> <p>8 which we work.</p> <p>9 Q. Well, didn't you testify earlier that the two</p> <p>10 agencies were --</p> <p>11 A. Separate.</p> <p>12 Q. -- independent and separate --</p> <p>13 A. Yes.</p> <p>14 Q. -- because they needed to be?</p> <p>15 A. Yeah. We also had a public defender who is a</p> <p>16 separate entity, a city prosecutor that's a</p> <p>17 separate entity --</p> <p>18 Q. Who's that --</p> <p>19 A. -- but we all have to interact with each</p> <p>20 other.</p> <p>21 Q. Whose idea was it to have a --</p> <p>22 A. Panel?</p> <p>23 Q. -- police captain --</p>	<p>1 Q. Facts about a magistrate?</p> <p>2 A. About the magistrates' office.</p> <p>3 Q. Did you give any facts about a magistrate?</p> <p>4 I'm just trying to get clear what your</p> <p>5 testimony is.</p> <p>6 MS. NELSON: Asked and answered.</p> <p>7 Q. And in spite of your attorney's --</p> <p>8 A. And I continue to say, no.</p> <p>9 Q. Pardon?</p> <p>10 A. I continue to say no. I just don't think I</p> <p>11 would do that.</p> <p>12 Q. Well, let's talk about your second interview.</p> <p>13 Did you tell her anything about three bad</p> <p>14 magistrates during her second interview?</p> <p>15 A. I just -- no. I just don't remember it being</p> <p>16 as specific as Nancy would allege. No.</p> <p>17 Q. Could it be that you told her that and you</p> <p>18 just don't recall?</p> <p>19 A. I would have recalled that.</p> <p>20 Q. You would recall that?</p> <p>21 A. Yes.</p> <p>22 Q. Did you give her any facts about any</p> <p>23 magistrate during that second interview?</p>
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<p>1 A. It was mine to have a panel.</p> <p>2 Q. -- in on a -- I'm sorry. It was whose idea?</p> <p>3 A. Mine, to have a panel rather than just --</p> <p>4 Q. And whose idea was it to include in that panel</p> <p>5 a police captain?</p> <p>6 A. Mine I'm sure.</p> <p>7 Q. Did anybody recommend that you do that?</p> <p>8 A. No. Just like nobody recommended I get</p> <p>9 somebody from Personnel or Legal. Those are</p> <p>10 just people we had -- departments we had to</p> <p>11 deal with.</p> <p>12 Q. Is it safe to say, based on your testimony</p> <p>13 that during this first interview, even though</p> <p>14 it consisted of a panel, you may have given</p> <p>15 some facts that was not favorable towards a</p> <p>16 particular magistrate?</p> <p>17 A. It is not safe to say that, no.</p> <p>18 Q. But you may have given some facts about a</p> <p>19 magistrate?</p> <p>20 MS. NELSON: Asked and answered. That's</p> <p>21 not her testimony.</p> <p>22 MR. JAFFREE: I'm asking.</p> <p>23 MS. NELSON: She said she gave some facts.</p>	<p>1 A. A specific -- I would have -- no, not a</p> <p>2 specific magistrate. No.</p> <p>3 Q. You're very comfortable with your no position?</p> <p>4 A. Pretty much so.</p> <p>5 Q. Pretty much so. Okay.</p> <p>6 A. Yes. I am very comfortable because at all</p> <p>7 interviews there were other people.</p> <p>8 Q. Okay. Now, were you also present when Nancy</p> <p>9 testified that you subsequently told her</p> <p>10 specifics about certain magistrates before she</p> <p>11 started but after she was hired? Were you</p> <p>12 present when she testified to that?</p> <p>13 A. I was.</p> <p>14 Q. And that she learned that it was Mary Turner</p> <p>15 who had allegedly assaulted a person in</p> <p>16 management. Prior to Nancy's hire, did Mary</p> <p>17 Turner assault anyone in management?</p> <p>18 MS. NELSON: Object to the form. Is</p> <p>19 that -- object to the form. I'm not</p> <p>20 sure that was in any testimony I heard</p> <p>21 yesterday.</p> <p>22 Q. She also testified that Mary Brackin and Mary</p> <p>23 Turner were the two magistrates that caused</p>

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1 the most trouble?
 2 Do you recall that testimony?
 3 A. That she testified that they were the two that
 4 caused the most trouble?
 5 Q. Yeah.
 6 A. That she said that?
 7 Q. That she said that you told her that?
 8 A. Do I recall her saying that?
 9 Q. Yeah.
 10 A. Is that what you're asking?
 11 Q. Well, forget about whether you recall her
 12 saying that. Do you agree that you told her
 13 that --
 14 A. No.
 15 Q. -- at a subsequent meeting?
 16 Do you agree or disagree that you told her
 17 that these two magistrates was attempting to
 18 sabotage you?
 19 A. I -- I just don't think -- no. I just don't
 20 think I would have told Nancy that.
 21 Q. You're not quite sure?
 22 A. I'm quite sure. No, not at -- I'm hiring
 23 somebody. I wouldn't just sit there and tell

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1 them that. That's somebody I've never met
 2 before. No.
 3 Q. So you're quite --
 4 A. No.
 5 Q. You're quite equivocal that you didn't tell
 6 her that?
 7 A. I -- no -- I mean, yes, I'm sure that I did
 8 not tell her that.
 9 Q. And that these two was also attempting to
 10 sabotage prior administrators?
 11 A. Were attempting to?
 12 Q. Sure. Had attempted to sabotage prior
 13 administrators?
 14 A. They had attempted to sabotage prior
 15 administrators. I don't know. No.
 16 Q. You didn't --
 17 A. I don't remember that.
 18 Q. -- tell her that?
 19 A. I don't remember saying that to her.
 20 Q. You could have said that?
 21 A. No. I don't see why I would have in an
 22 interview -- on a job interview. No.
 23 Q. Do you have a recollection that you didn't say

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1 it, or you just think you probably didn't say
 2 it?
 3 A. I don't -- I don't see where I would have said
 4 it.
 5 Q. Okay.
 6 A. There were other people in the interview.
 7 Q. Were these two magistrates attempting to
 8 sabotage you?
 9 MS. NELSON: Object to form.
 10 A. I don't know.
 11 Q. You don't know whether Mary Turner and Mary
 12 Brackin was attempting to sabotage you?
 13 A. I have no specific knowledge of Mary Turner
 14 and Mary attempting to sabotage me.
 15 Q. What about attempting to sabotage prior
 16 administrators, do you have any knowledge of
 17 that?
 18 A. Not Bettye King.
 19 Q. Well, what about the other administrator?
 20 A. Donna Nicholson?
 21 Q. Uh-huh (positive response). Do you think
 22 those two tried to sabotage her?
 23 A. I don't have any specific knowledge that they

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1 did.
 2 Q. Okay. She also claims that you told her that
 3 she had to be on the lookout for them, that
 4 they would attempt bodily harm, and so she
 5 needed to be careful?
 6 A. That is a lie. I never told Mary -- Nancy
 7 that Mary Turner and Mary Brackin would
 8 attempt bodily harm on her.
 9 Q. She also testified that you told her that --
 10 A. I would never condone that.
 11 Q. Okay. She also testified that you told her
 12 that Mary Beth was under investigation for
 13 something that she had told a defendant.
 14 MS. NELSON: Is that a question?
 15 MR. JAFFREE: Yeah.
 16 Q. Do you --
 17 A. I might have.
 18 Q. Do you dispute that you told her that?
 19 A. No, I don't dispute.
 20 Q. So you may have told her that Mary Beth was
 21 under investigation?
 22 A. If she was at the time, yes.
 23 Q. Had that investigation been completed by the

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1 time Nancy was being interviewed?

2 A. I don't remember. I think the result -- no, I

3 don't remember.

4 **Q. If it had been completed, would you have told**

5 **her that she was under investigation?**

6 A. If it had been completed, would I have told

7 her that it was still under investigation?

8 **Q. Yeah. Was this told to Nancy during the**

9 **interview, that she was under investigation?**

10 A. I don't know why I would if it had been

11 completed.

12 **Q. All right. So you may have told her, or you**

13 **know that you did tell her that?**

14 A. Well, if it had completed, I wouldn't tell

15 it's still going on. I would have no purpose

16 for doing that.

17 **Q. She also testified during this meeting that**

18 **you told her that Sarah Fowler wouldn't**

19 **instigate anything on her own but she was a**

20 **follower of Mary -- Mary Turner and Mary**

21 **Brackin.**

22 **Could you have told her that?**

23 A. I don't remember telling her that

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1 leave time, that she was out sick a lot, out

2 sick with her children.

3 **Could you have told her that?**

4 A. Possibly.

5 **Q. Would Nancy have known about that prior to her**

6 **employment with the City?**

7 A. I don't know if she knew Michelle Bryan before

8 she came to the City or not.

9 **Q. She also testified you told her that Michelle**

10 **was very cute and divorced.**

11 **Could you have told her that?**

12 MS. NELSON: When she did she testify to

13 this? Object to the form.

14 MR. JAFFREE: Well, I mean, look at the

15 transcript. She did testify to that.

16 A. "Very cute and divorced." I don't know.

17 MS. NELSON: You said yesterday.

18 MR. JAFFREE: Well, I recall the

19 testimony.

20 **Q. Well, did you tell her that she was cute and**

21 **divorced?**

22 A. I don't -- I don't remember specifically

23 telling her that.

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1 specifically, no.

2 **Q. Could you have told her that, perhaps in --**

3 **not in those words but similar content?**

4 A. Possibly.

5 **Q. So you may have told her that?**

6 A. Possibly.

7 **Q. So if you had told her that Sarah Fowler was a**

8 **follower of Mary Turner and Mary Brackin, then**

9 **you may have told her something about Mary**

10 **Turner and Mary Brackin; is that correct?**

11 A. I don't know. I mean, what I would have told

12 her is what their job duties were, how they

13 interacted in the office, because I was trying

14 to give her a feel of the whole office. I

15 would have told her about every magistrate. I

16 wouldn't have just sat there and said

17 something about three people --

18 **Q. Well, no --**

19 A. -- out of a whole office to a person I'd never

20 met before. No.

21 **Q. She didn't say it was just limited to three.**

22 **Now, with respect to Michelle Bryan, she**

23 **said you told her that she was in a hole with**

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1 **Q. Well, was Michelle Bryan, in your view, cute?**

2 A. No.

3 **Q. In your view, was Michelle Bryan divorced?**

4 A. I never thought she was divorced.

5 **Q. She also testified that --**

6 A. I thought she had a husband.

7 **Q. -- she socialized a lot in the office and that**

8 **she talked on the phone with several police**

9 **officers, and was dating several. This is her**

10 **testimony.**

11 **Did you tell her that?**

12 A. I don't -- that was kind of common knowledge

13 around the office. I don't remember

14 specifically telling her that.

15 **Q. But it was so common, you knew about it,**

16 **right?**

17 A. Everybody knew about it.

18 **Q. Including you?**

19 A. Yes.

20 **Q. So you may have told her that?**

21 A. I don't remember -- I don't gossip like that

22 with somebody I've never met before. No.

23 **Q. Well --**

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<p>1 A. No.</p> <p>2 Q. If Nancy --</p> <p>3 A. No.</p> <p>4 Q. So you didn't tell her that?</p> <p>5 A. In her interview, Mr. Jaffree, I told her all</p> <p>6 that in her job interview?</p> <p>7 Q. Well, I'm telling you what Nancy says.</p> <p>8 A. I'm asking. No, I did not, in a job</p> <p>9 interview.</p> <p>10 Q. No. She didn't say interview.</p> <p>11 A. That's what you said.</p> <p>12 Q. She said in a subsequent meeting, she said she</p> <p>13 came in two or more times subsequently --</p> <p>14 subsequent to her being hired but before she</p> <p>15 actually put boots in the ground to start</p> <p>16 working physically in the facility, she said</p> <p>17 she met with you and you told her this, one on</p> <p>18 one, no committee, just you and her, mono to</p> <p>19 mono.</p> <p>20 Do you remember her testimony?</p> <p>21 A. No.</p> <p>22 Q. You don't remember her testimony?</p> <p>23 A. No, not specifically.</p>	<p>1 Q. At any time, do you recall telling Nancy to</p> <p>2 cut down on Michelle Bryan's socialization --</p> <p>3 socializing with men?</p> <p>4 A. I don't specifically remember that, but I</p> <p>5 remember that that was a problem during that</p> <p>6 time.</p> <p>7 Q. Do you generally remember telling Nancy that?</p> <p>8 A. No, but I remember -- no. I don't remember</p> <p>9 saying, Nancy --</p> <p>10 Q. So it was a problem?</p> <p>11 A. Yes.</p> <p>12 Q. So you could have told Nancy that?</p> <p>13 A. Could I have told Nancy that, you need to stop</p> <p>14 her from socializing? I just don't remember</p> <p>15 specifically.</p> <p>16 Q. Do you have any reason to believe that Nancy</p> <p>17 would have had knowledge of Michelle's</p> <p>18 socializing before she started working?</p> <p>19 A. You said she had started working.</p> <p>20 MS. NELSON: Well, if you're confused, ask</p> <p>21 him to --</p> <p>22 A. Well, you said --</p> <p>23 Q. She was hired but hadn't started -- there was</p>
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<p>1 Q. She also testified that you would have to deal</p> <p>2 with her dating and cut down on her</p> <p>3 socialization -- socializing.</p> <p>4 Could you have told her that?</p> <p>5 MS. NELSON: You're talking still in the</p> <p>6 time before she was hired?</p> <p>7 MR. JAFFREE: Yeah. She was hired but</p> <p>8 before she started working.</p> <p>9 MS. NELSON: You said, before she "put</p> <p>10 boots in the ground." I have no idea</p> <p>11 what that means. You're saying,</p> <p>12 before she was hired or after she --</p> <p>13 MR. JAFFREE: I said more than just boots</p> <p>14 in the ground. I said boots in the</p> <p>15 ground and started working at the</p> <p>16 facility.</p> <p>17 MS. NELSON: Before -- so you're asking</p> <p>18 her, did she say -- we're talking</p> <p>19 about a time frame before she started</p> <p>20 working at the facility.</p> <p>21 MR. JAFFREE: Subsequent to her hire but</p> <p>22 before her start date.</p> <p>23 A. So what was she doing?</p>	<p>1 a month or more gap between the time she was</p> <p>2 hired and the time she started.</p> <p>3 A. I don't know. She said, she knew Valarie</p> <p>4 Savage and her family, and Valarie and</p> <p>5 Michelle Bryan were best friends.</p> <p>6 Q. So she could have gotten this information from</p> <p>7 Valarie Savage?</p> <p>8 A. Right. Or just -- I don't know.</p> <p>9 Q. Or she could have gotten it from you; you're</p> <p>10 not sure?</p> <p>11 A. I don't know.</p> <p>12 Q. She could have gotten it from you?</p> <p>13 A. I don't -- I don't think so.</p> <p>14 Q. Well, but that part of her--</p> <p>15 A. I wouldn't gossip with Nancy.</p> <p>16 Q. Well, that part of her testimony could be</p> <p>17 true?</p> <p>18 A. No. No.</p> <p>19 Q. You want to say no now?</p> <p>20 A. Yeah, I want to say no.</p> <p>21 Q. You feel comfortable with no?</p> <p>22 A. Yeah. Yes, I feel comfortable with no. I</p> <p>23 wouldn't sit there and gossip with an employee</p>

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<p>1 that I had just --</p> <p>2 Q. She also stated that you wanted her -- that</p> <p>3 she needed to look out for Valarie Savage,</p> <p>4 that she had many problems in her previous</p> <p>5 employment as secretary to Judge Steensland.</p> <p>6 Do you know if Valarie Savage formerly</p> <p>7 worked for Judge Steensland?</p> <p>8 A. I know she worked for a circuit judge, and I</p> <p>9 vehemently deny ever telling her that or that</p> <p>10 Valarie slept with prisoners. I vehemently</p> <p>11 deny that.</p> <p>12 Q. Well, I haven't got to that yet.</p> <p>13 A. I heard her say that yesterday.</p> <p>14 Q. But you do remember that testimony?</p> <p>15 A. I vehemently deny all statements she made</p> <p>16 about Valarie Savage.</p> <p>17 Q. That her attitude was bad and that you should</p> <p>18 have fired her a long time ago?</p> <p>19 A. Valarie is one of our most prized employees.</p> <p>20 And I value her.</p> <p>21 Q. Are you disputing that testimony?</p> <p>22 A. I dispute that. And I'm appalled that Nancy</p> <p>23 would say that, and I hope she's not told her</p>	<p>1 that --</p> <p>2 A. She might have.</p> <p>3 Q. -- that she slept with inmates?</p> <p>4 A. She -- I don't know. She might have. I -- I</p> <p>5 love Valarie.</p> <p>6 Q. Did you caution her that she could be sleeping</p> <p>7 with inmates here in the municipal court</p> <p>8 system?</p> <p>9 A. No, I did not tell her that. I did not tell</p> <p>10 Nancy that about Valarie Savage.</p> <p>11 Q. You dispute that?</p> <p>12 A. I dispute that vehemently,</p> <p>13 V-E-H-E-M-E-N-T-L-Y. Vehemently deny that.</p> <p>14 Q. And then she went on to --</p> <p>15 A. I'm sorry.</p> <p>16 Q. And then she went on to Ann Baxter, and she</p> <p>17 said you mentioned that she was nice and would</p> <p>18 do anything for you, but she had problems</p> <p>19 balancing money.</p> <p>20 Now, could you have told her that Ann</p> <p>21 Baxter, sweet person, but had problems</p> <p>22 balancing money? Could you have told her</p> <p>23 that?</p>
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<p>1 that.</p> <p>2 Q. Okay. And that she has slept with inmates</p> <p>3 apparently when she worked at Judge</p> <p>4 Steensland's office, and that was one of the</p> <p>5 reasons why they had to let her go?</p> <p>6 A. Well, why did I hire her if I knew all that?</p> <p>7 Q. Well --</p> <p>8 A. If I told her all that, but I hired her</p> <p>9 anyway?</p> <p>10 Q. I'm not in your head.</p> <p>11 A. Well, it's just ludicrous, is all I'm saying.</p> <p>12 I deny telling that.</p> <p>13 Q. So you deny -- you dispute that testimony?</p> <p>14 A. Yes, I dispute telling Nancy that.</p> <p>15 Q. Do you know how Nancy would have known that</p> <p>16 Valarie Savage worked for Judge Steensland?</p> <p>17 A. She said that she and Valarie's family were</p> <p>18 friends and that Valarie's aunt was her best</p> <p>19 friend's mother; she knew members of her</p> <p>20 family.</p> <p>21 Q. So you think maybe --</p> <p>22 A. Do you remember that testimony yesterday?</p> <p>23 Q. Do you think that Valarie may have told her</p>	<p>1 A. I'm not sure.</p> <p>2 Q. Did Ann Baxter have problems balancing money?</p> <p>3 A. She had problems with the computer system that</p> <p>4 was in place at the time. I don't know if</p> <p>5 Nancy might have misunderstood.</p> <p>6 Q. So you could have said something --</p> <p>7 A. About the computer system.</p> <p>8 Q. -- and Nancy misunderstood?</p> <p>9 A. Shy might have.</p> <p>10 Q. Could she have misunderstood what you said</p> <p>11 about Valarie?</p> <p>12 A. Valarie. I -- I -- not only did she</p> <p>13 misunderstand that, I never would have sat</p> <p>14 there in a professional job interview and</p> <p>15 gossip and malign people.</p> <p>16 Q. So it's your testimony that Nancy just made</p> <p>17 all this up out of whole cloth?</p> <p>18 A. No. I think Nancy heard that from gossiping</p> <p>19 in the office with Mary Beth and Mary Turner</p> <p>20 and Valarie, whoever else she gossiped with.</p> <p>21 Q. Upon what do you premise your remarks, that</p> <p>22 Nancy heard that from Mary Beth and Mary</p> <p>23 Turner?</p>

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1 A. I said whoever she gossiped with.
 2 **Q. Well, you first said Mary Beth and Mary**
 3 **Turner.**
 4 A. I said Mary Beth or whoever she gossiped with.
 5 **Q. Well, who all did Mary gossip with -- I'm**
 6 **sorry -- Nancy gossip with?**
 7 A. It looks like everybody from what you're
 8 saying.
 9 **Q. Well, based --**
 10 A. Because you sure knew a lot.
 11 **Q. Well, based on your personal knowledge, who**
 12 **all does she gossip with?**
 13 A. I have -- I don't have no personal knowledge
 14 of whom Nancy gossiped with.
 15 **Q. With respect to Ann Baxter, I think she also**
 16 **said that she makes numerous mistakes in**
 17 **computer entry.**
 18 **Did you tell her that?**
 19 MS. NELSON: Are we talking about Ann --
 20 MR. JAFFREE: Ann Baxter.
 21 MS. NELSON: Ann Baxter? So your question
 22 is, did the judge --
 23 **Q. Tell Nancy that, that Ann Baxter makes**

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1 **numerous mistakes in computer entry?**
 2 A. I don't know. I remember telling her that
 3 there were a lot of computer problems. And
 4 Ann -- because Ann was working the window, she
 5 had to bear the brunt of it.
 6 **Q. So you may have told her that part?**
 7 A. That they had computer problems, yes.
 8 **Q. So you may have told her that.**
 9 A. That they had computer problems.
 10 **Q. Do you recall telling her that, or you may**
 11 **have told her that?**
 12 A. I may have told her they had computer
 13 problems.
 14 **Q. So you can't dispute that?**
 15 A. No, that they had -- were having computer
 16 problems. No.
 17 **Q. So we're parsing out what you may have told**
 18 **and not told her about Ann.**
 19 **She also stated that you told her that Ann**
 20 **was, at that time, being investigated by**
 21 **Valerie Harris.**
 22 **Are you familiar with Valerie Harris?**
 23 A. I'm am. She was an internal auditor doing the

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1 liaison between the computer system and us.
 2 The city manager appointed her. So Valerie
 3 Savage might have been working on the computer
 4 problem errors that Ann was having.
 5 **Q. Is it conceivable that Valerie may have**
 6 **been -- Valerie Harris, that is, may have been**
 7 **investigating --**
 8 A. Computer problems.
 9 **Q. -- Ann Baxter?**
 10 A. Computer problems. Ann bore the brunt of it
 11 because she worked the window. She worked the
 12 window, so she was the one entering. And so
 13 she had more computer errors.
 14 **Q. Well, my question is, whatever Ms. Harris was**
 15 **investigating, it could have involved Ann**
 16 **Baxter?**
 17 A. It could have. Yes, it could have, and
 18 computer errors.
 19 **Q. So you could have -- and you may have told**
 20 **Nancy that?**
 21 A. Right.
 22 **Q. Just like you have admitted that you told her**
 23 **about this other investigation involving**

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1 **Ms. Brackin, you also could have told her**
 2 **about the investigation involving Ann Baxter?**
 3 A. But what I told you about the investigation,
 4 if it was closed, I would never have told her
 5 it was ongoing. If it was closed, it was
 6 over.
 7 **Q. Well, maybe it wasn't closed. I mean, this**
 8 **was in December I guess or maybe in January.**
 9 A. Yeah, I don't.
 10 **Q. So maybe it wasn't closed?**
 11 A. But if I was trying to give her an overview of
 12 the office, I might have said some of those
 13 things.
 14 **Q. You might have said some of those things.**
 15 A. But Nancy has taken them and distorted them
 16 for the purposes of this lawsuit. That's what
 17 she's done.
 18 **Q. That's what you think, she's distorted them?**
 19 A. That's what I know. I was there.
 20 **Q. Haven't Nancy been consistent --**
 21 A. No.
 22 **Q. -- on what she saying?**
 23 A. No.

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<p>1 Q. Even prior to this lawsuit?</p> <p>2 A. No.</p> <p>3 Q. Well, I read this little laundry list of stuff</p> <p>4 that she had --</p> <p>5 A. Nancy had.</p> <p>6 Q. -- before this lawsuit.</p> <p>7 MS. NELSON: Well, just let him ask the</p> <p>8 questions. I don't understand the</p> <p>9 question, consistent with -- I'm</p> <p>10 not --</p> <p>11 MR. JAFFREE: You don't understand what</p> <p>12 question?</p> <p>13 MS. NELSON: I don't understand the</p> <p>14 question.</p> <p>15 MR. JAFFREE: Which question, none of</p> <p>16 them?</p> <p>17 MS. NELSON: About her being consistent.</p> <p>18 With what, I'm not sure. You were</p> <p>19 trying to ask her.</p> <p>20 MR. JAFFREE: I don't remember either now.</p> <p>21 Let me move on.</p> <p>22 Q. Do you recall telling Nancy that Ann Baxter</p> <p>23 had a lot of money?</p>	<p>1 Nancy that?</p> <p>2 A. I don't think so.</p> <p>3 Q. So you don't know how Nancy got this</p> <p>4 information?</p> <p>5 A. No.</p> <p>6 Q. So if Nancy says you told her, you would</p> <p>7 dispute that?</p> <p>8 A. Pretty much, yes.</p> <p>9 Q. Now --</p> <p>10 A. I would dispute all of the stuff that she</p> <p>11 said.</p> <p>12 Q. All of the magistrates that I have mentioned</p> <p>13 so far that Nancy said you told her some</p> <p>14 things about, were they white or black?</p> <p>15 A. Probably white because the majority --</p> <p>16 Q. You're not sure?</p> <p>17 A. -- of the office is white.</p> <p>18 Q. You're not sure?</p> <p>19 A. I'd have to go back through each one, but</p> <p>20 probably, more than likely white.</p> <p>21 Q. Well, how far would you have to go back to</p> <p>22 know whether or not the people I just</p> <p>23 mentioned are white or black?</p>
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<p>1 A. I don't know how I would have known that. No,</p> <p>2 I don't recall telling her that.</p> <p>3 Q. Did you know that Ann Baxter had a lot of</p> <p>4 money?</p> <p>5 A. No.</p> <p>6 Q. Did you know Ann Baxter owned a real estate</p> <p>7 company?</p> <p>8 A. I know she had previously.</p> <p>9 Q. Did you tell Nancy that she had owned a real</p> <p>10 estate company?</p> <p>11 A. I'm not sure. I don't recall.</p> <p>12 Q. Did you know that Ann Baxter inherited land</p> <p>13 from a family member?</p> <p>14 A. I don't -- I don't know. No. I don't --</p> <p>15 didn't know Ann that well -- I mean, to know</p> <p>16 all that.</p> <p>17 Q. Well, do you know that now?</p> <p>18 A. No. I know that she owned a real estate</p> <p>19 company before.</p> <p>20 Q. What about inherited money from a family</p> <p>21 member; did you know that?</p> <p>22 A. No.</p> <p>23 Q. You don't know that now? So you didn't tell</p>	<p>1 A. To the beginning of your list. You asked me</p> <p>2 about -- who? Mary Beth is white. Mary</p> <p>3 Turner is white. Ann Baxter is white. Who</p> <p>4 else you asked me about?</p> <p>5 MS. NELSON: Sarah Fowler.</p> <p>6 A. Sarah Fowler is white. The office was --</p> <p>7 MS. NELSON: Michelle Bryan.</p> <p>8 A. -- predominantly white. Michelle Bryan.</p> <p>9 Q. All right. Now, would you agree that if</p> <p>10 Nancy's version is correct, then you said</p> <p>11 something negative about each of those people?</p> <p>12 MS. NELSON: Object to the form.</p> <p>13 A. If Nancy's version were correct, yeah.</p> <p>14 Q. So you gave her sort of a negative picture of</p> <p>15 each of these white --</p> <p>16 MS. NELSON: Object to the form. She's</p> <p>17 just denied most everything you've</p> <p>18 asked her about.</p> <p>19 Q. My question is, if Nancy's version is correct,</p> <p>20 you gave her a negative view of each of these</p> <p>21 white magistrates.</p> <p>22 MS. NELSON: Object.</p> <p>23 Q. Is that correct?</p>

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